

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

In the Matter of:)
)
B.D.) OAH No. 20-0028-SNA
_____)

DECISION

I. Introduction

B.D. received benefits through the Supplemental Nutrition Assistance Program (SNAP), commonly referred to as Food Stamps, for her household in 2019. After an internal audit, the Division of Public Assistance (Division) sent her notice that she had received \$427.00 more in benefits than she was entitled to receive, and she was required to repay that amount. She requested a hearing on January 8, 2020.

Her hearing was held January 30, 2020. B.D. represented herself. Jeff Miller, Fair Hearing Representative, appeared on behalf of the Division.

The evidence shows B.D. did receive \$427.00 in extra benefits from August 2019 through October 2019 because of an error calculating her household income related to the presence of an employed child in her household. Even though the overpayment was caused by the Division’s error, the Division is required to recover the full overpayment.

Consequently, the Division’s decision requiring repayment is AFFIRMED.

II. Facts¹

Beginning in April 2019 B.D. received SNAP/Food Stamp benefits based on a household of three.² The household relied on her estimated income.³ On July 5, 2019, she filed a report of change with the Division. The report of change added another child to her household effective August 2019.⁴ Because the child was employed, his income should have been included in the calculation of household benefits.⁵

The Division did not process the report of change until November 2019. It then used The Work Number website to obtain her adult son’s income for the past three months and calculate

¹ These facts were established by a preponderance of the evidence at the hearing.
² The household consisted of B.D. and two of her sons. Ex. 1-1.2.
³ Ex. 1-1.4.
⁴ Ex. 2.
⁵ 7 C.F.R. § 271.

the household benefits. Those calculations demonstrated that B.D. received an underpayment in one of the three months and an overpayment in the other two. Overall, the discrepancies resulted in \$427.00 in overpayments to her.⁶

A recoupment notice was sent to B.D. on January 2, 2020.⁷ The notice told her she had two choices: set up a payment plan to reimburse the Division the overpayment or file a request for appeal.⁸

B.D. requested a hearing to challenge the repayment requirement on January 8, 2020.⁹

The hearing was held January 30, 2020. B.D. represented herself, although she declined to testify on her own behalf. Fair Hearing Representative Jeff Miller appeared for the Division and testified on its behalf.

III. Discussion

B.D. did not actively dispute that she received \$427.00 in overpayment of benefits. The Division has therefore met its burden of proof that B.D. was overpaid Food Stamp benefits. As a matter of law, the Division is required to pursue collection of overpayment even if the overpayment is caused by the Division's error.¹⁰ Thus, although the overpayment in this case did occur because of Division error, the Division's decision to seek repayment is correct.

B.D. was understandably frustrated by the Division's failure to make timely adjustments to her benefits to reflect her reported household composition. B.D. fully complied with her obligations as acknowledged by the Division. The Administrative Law Judge does not have the original authority to reduce the amount owed if it is accurate, however.¹¹ Instead, the appropriate remedy is for B.D. to negotiate a repayment plan with a claims adjuster, supply repayment through a reduction in her continuing monthly benefits, or request a hardship waiver directly from the Division. The Division has the authority to waive the entire amount of the repayment claim under certain circumstances.¹²

⁶ Testimony of Jeff Miller.

⁷ Ex. 4.

⁸ *Id.*

⁹ Ex. 5.

¹⁰ The Division "must establish and collect any claim" for overpaid Food Stamp benefits issued. 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS*, 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

¹¹ 7 C.F.R. § 273.18(6).

¹² 7 C.F.R. § 271.4(b); 7 C.F.R. § 273.18(e)(7).

IV. Conclusion

B.D. was overpaid \$427.00 in SNAP/Food Stamp benefits and is required to repay those benefits to the Division, regardless of the fact she was not at fault and the overpayment was caused by the Division’s error. The Division’s request for repayment is AFFIRMED.

Dated: March 2, 2020.

Signed
Carmen E. Clark
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 18th day of March, 2020.

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.]