

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

In the Matter of	)	
	)	
G. U.	)	OAH No. 23-0111-SNA
_____	)	

**DECISION**

**I. Introduction**

G. U. is a Supplemental Nutrition Assistance Program (SNAP)<sup>1</sup> recipient who received SNAP benefits in 2021 and 2022. The Division of Public Assistance (Division) determined that she had erroneously been overpaid SNAP benefits during both of those years and sent her notice that she was required to reimburse the Division \$2,879, which was the amount she had been overpaid during the months of September 2021 through August of 2022.

G. U. requested a hearing to dispute the Division’s repayment requirement. Her hearing was held on March 20, 2023. G. U. represented herself and testified on her own behalf. Sally Dial, a Fair Hearing representative with the Division, represented the Division and testified on its behalf.

The evidence at hearing established that the Division erroneously counted G. U.’s husband as part of her SNAP household, when he was not eligible for SNAP benefits. This resulted in G. U.’s household receiving a larger benefit amount than it was entitled to receive. As a result, G. U. received a total of \$2,879 in SNAP benefits during September 2021 through August 2022, which she should not have. Although the overpayment was caused by the Division’s error, the Division is legally required to recover those benefits from G. U. Accordingly, the Division’s requirement that G. U. repay it the \$2,879 in SNAP benefits that she erroneously received is **AFFIRMED**.

**II. Facts**

G. U. applied for SNAP benefits on December 14, 2020 for her household. During the application process, the Division was aware that Q. U., her husband, was not eligible for SNAP benefits because he was an alien who had not yet satisfied the five-year qualifying period

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<sup>1</sup> The Supplemental Nutrition Assistance Program is also known by its previous name of the Food Stamp Program. Congress changed the name of the program from the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP). The term SNAP will be used in this decision.

required for him to be eligible.<sup>2</sup> G. U.'s application was approved. However, benefits were issued for an eight-person household, which included Q. U., through January 2022.<sup>3</sup> G. U.'s sister was added to the household and the Division issued benefits for a nine-person household beginning in February 2022.<sup>4</sup> The Division then reduced the household size to eight beginning with August 2022.<sup>5</sup> This meant that the Division issued SNAP benefits in January 2021 through January of 2022 for an eight-person household, for a nine-person household in February 2022 through July 2022, and in August of 2022 for an eight-person household. In issuing those benefits, Q. U. was, at all relevant times, counted as part of the household.

In August of 2022, the Division reviewed G. U.'s SNAP case and realized that the benefits which had been issued to G. U.'s household were based upon a household size that included Q. U., when he should not have been counted as part of the household.<sup>6</sup>

On December 22, 2022, the Division notified G. U. that it was requiring her to repay the benefits that had been overpaid to her from September 2021 through August of 2022, based upon its error in counting Q. U. as part of her SNAP household, which came to a total of \$2,879. The Division did not ask her to repay any amount that might have been overpaid before September of 2021.<sup>7</sup>

G. U. did not dispute that she had received the benefits, the fact that Q. U. was not eligible for SNAP benefits, the fact that the Division had counted Q. U. as part of the household when it issued benefits, or the Division's calculations of the amount overpaid.

### **III. Discussion**

The issue in this case is whether the Division was correct to require G. U. to repay \$2,879 of the SNAP benefits that she received in September of 2021 through August of 2022.

SNAP is a federal program which is administered by the State of Alaska.<sup>8</sup> To administer the program in Alaska, the Alaska Department of Health has adopted the federal regulations governing the program.<sup>9</sup> Accordingly, the decision in this case is governed by the federal SNAP

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<sup>2</sup> Ex. 2.

<sup>3</sup> Exs. 2.1, 5.11 – 5.15.

<sup>4</sup> Exs. 3 – 3.1, 5.16 – 5.21.

<sup>5</sup> Ms. Dial's testimony; Ex. 5.22.

<sup>6</sup> Exs. 4 – 4.2.

<sup>7</sup> Exs. 5 – 5.27.

<sup>8</sup> 7 C.F.R. § 271.4(a).

<sup>9</sup> 7 AAC 46.010.

regulations.<sup>10</sup> In requesting an overpayment caused by the Division’s error, the Division only collects up to 12 months before it discovered the error.<sup>11</sup> The Division has the burden of proof in this case because it is seeking to recover paid SNAP benefits from G. U.<sup>12</sup>

It is undisputed that the Division issued benefits to a household that included Q. U. when it should not have. This meant that it overissued benefits as follows:

- During September 2021 through January 2022, it issued benefits for an eight-person household when it should have issued benefits for a seven-person household.
- During February through July of 2022, it issued benefits for a nine-person household when it should have issued benefits for an eight-person household.
- During August 2022, it issued benefits for an eight-person household when it should have issued benefits for a seven-person household.
- The total amount of benefits that G. U. received that exceed the amount she should have received is \$2,879.

The question then arises as to whether G. U. must repay the \$2,879 that she received in SNAP benefits for which she was not eligible. The Division has not claimed fraud and the evidence shows G. U.’s receipt of ongoing benefits was due to the fact that the Division made a mistake and counted Q. U. as part of her household when it should not have. This was the Division’s error.

The federal statute that addresses Food Stamp overpayments, 7 U.S.C. § 2022(b)(1), provides that the “state agency *shall* collect any issuance of benefits issued to the household . . .” [emphasis added]. The specific federal regulation pertaining to the recoupment of Food Stamp benefits is 7 C.F.R. § 273.18. Subsection (a)(2) of that regulation provides that “the State agency *must* establish and collect any claim . . .” Under subsection (b) ((3), collection action is required even where (as here) the “overpayment [is] caused by an action or failure to take action by the State agency.” The Alaska Supreme Court has ruled that these federal requirements apply to Alaska Food Stamp recipients.<sup>13</sup> Even though the overpayment was caused by the Division’s error when it counted Q. U. as part of the household when it calculated the household monthly

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<sup>10</sup> The applicable regulations are located at 7 C.F.R. § 273.1 *et. seq.*

<sup>11</sup> 7 CFR 273.18(c)(1)(i)

<sup>12</sup> 7 AAC 49.135.

<sup>13</sup> *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

benefit amount, the Division is required to recover the overpaid benefits, which amount to \$2,879.

**IV. Conclusion**

The Division's determination that G. U. was overpaid \$2,879 in SNAP benefits and is required to reimburse the Division in that amount is AFFIRMED.

DATED: March 24, 2023.

*Signed* \_\_\_\_\_  
Lawrence A. Pederson  
Administrative Law Judge

## Adoption

The undersigned, by delegation from the Commissioner of Health, 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 7<sup>th</sup> day of April, 2023.

By: *Signed* \_\_\_\_\_  
Lawrence A. Pederson  
Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]