

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

In the Matter of)
)
E. T.) OAH No. 23-0216-SNA
_____)

DECISION

I. Introduction

E. T. is a Supplemental Nutrition Assistance Program (SNAP)¹ recipient who received SNAP benefits in 2022. The Division of Public Assistance (Division) determined that she had erroneously been overpaid SNAP benefits during 2022 and sent her notice that she was required to reimburse the Division \$5,305 which was the amount she had allegedly been overpaid during the months of September, October, and November of 2022. The Division subsequently decided to compromise the amount due and reduced it to \$360.

E. T. requested a hearing to dispute the Division’s repayment requirement on February 24, 2023. The Division referred the case to the Office of Administrative Hearings on March 29, 2023.²

E. T.’s hearing was held on April 13, 2023. E. T. represented herself and testified on her own behalf. Jessica Hartley, a Fair Hearing representative with the Division, represented the Division and testified on its behalf.

The evidence at hearing established that the Division made a reasonable request for information from E. T., to which she did not respond by the due date. Consequently, the Division should have terminated E. T.’s SNAP benefit case at the end of August 2022, but erroneously did not. This resulted in E. T. receiving SNAP benefits which she should not have in September, October, and November of 2022. Accordingly, the Division’s requirement that E. T. repay it the overpayment claim in the compromised amount of \$360 is **AFFIRMED**.

¹ 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.

² E. T. requested a hearing on February 24, 2023. Per 7 AAC 49.080(2), the Division is to refer hearing requests to the Office of Administrative Hearings within 10 days of the hearing request, which would have been March 6, 2023. The Division did not refer this case to the Office of Administrative Hearings for hearing until March 29, 2023, 23 days late.

II. Facts

E. T. lives in No Name, Alaska, which does not have a Division office. Instead, there is a fee agent, who accepts applications on behalf of the Division. E. T. applied for SNAP benefits on July 18, 2022 for her household.³ In her handwritten and signed application, she stated that she was married, and that she and her spouse would be filing their taxes jointly.⁴ However, her application did not list her husband as a household member. It also stated that he was a non-custodial parent.⁵ As part of the application process, the fee agent interviewed E. T. The fee agent filled out a “Fee Agent Interview Report” which had the “No” box checked in response to the question regarding whether there were other people living in the household, who were not listed on the application.⁶

E. T.’s application was approved on an expedited basis. However, the Division sent E. T. notice that “[s]ince you needed SNAP benefits right away, we delayed getting some information or proof from you. To continue receiving SNAP, you must provide the items listed at the bottom of this notice by 08/08/2022.”⁷ The Division’s information request was for E. T.’s children’s social security numbers, information regarding whether her husband was living in the home “[a]s the application says [they] will be filing taxes together,” and for verification of household expenses.⁸ E. T. provided the Division with copies of the children’s social security cards, albeit after the August 8, 2022 deadline⁹, but the Division has no record of her supplying additional information about her husband.¹⁰

On November 23, 2022, the Division did a review of E. T.’s SNAP case and determined that she did not fully respond to its request for information, and that it should have terminated her SNAP benefits because she did not fully respond to its request for information.¹¹ The Division then closed her benefit case as of the end of November 2022, and sent her notice to that effect.¹²

³ Exs. 2 – 2.20.

⁴ Ex. 2.1.

⁵ Ex. 2.20.

⁶ Ex. 3.

⁷ Ex. 5.

⁸ Ex. 5.

⁹ Exs. 6.1 – 6.9.

¹⁰ Ex. 7. Ms. Hartley’s testimony.

¹¹ Ex. 7.

¹² Ex. 8.

On December 27, 2022, the Division sent E. T. notice that it had made an error when it failed to terminate her SNAP benefits at the end of August 2022, and continued paying her those benefits through November of 2022.¹³ E. T. received a total of \$5,305 in SNAP benefits during September, October, and November of 2022.¹⁴ In its notice, the Division told E. T. that she was required to repay those SNAP benefits which totaled \$5,305.¹⁵ After the Division sent E. T. the notice that she was required to repay \$5,305, it sent her a further notice on February 13, 2023, stating that it had determined that requiring her to repay the entire \$5,305 would be a “significant hardship” given the circumstances, and that it was only requiring her to pay back \$360.¹⁶

E. T. testified that she told the Division’s fee agent that her husband was not living with her. She stated that they had separated in January of 2022, when he became incarcerated and that he was still incarcerated when she filed her application. She further stated that she and her husband have never filed joint tax returns, and that she made a mistake when she indicated on her application that they would be filing taxes jointly.¹⁷ E. T. did not dispute that she received the SNAP benefits.

III. Discussion

The issue in this case is whether DPA was correct to require E. T. to repay the SNAP benefits that she received in September, October, and November of 2022. The original claim was for \$5,305, but the Division reduced its claim to \$360.

SNAP is a federal program which is administered by the State of Alaska.¹⁸ To administer the program in Alaska, the Alaska Department of Health has adopted the federal regulations governing the program.¹⁹ Accordingly, the decision in this case is governed by the federal SNAP regulations.²⁰ The Division has the burden of proof in this case because it is seeking to recover paid SNAP benefits from E. T..²¹

The first step in resolving this case is determining whether the Division reasonably asked E. T. for information about her husband. Household composition is a crucial factor for SNAP

¹³ Exs. 9.2 – 9.11.

¹⁴ Ex. 9.1.

¹⁵ Exs. 9.2 – 9.11.

¹⁶ Ex. 10.

¹⁷ E. T.’s testimony.

¹⁸ 7 C.F.R. § 271.4(a).

¹⁹ 7 AAC 46.010.

²⁰ The applicable regulations are located at 7 C.F.R. § 273.1 *et. seq.*

²¹ 7 AAC 49.135.

applications, because benefit eligibility and benefit amount are based upon the income for each person in the household and the number of persons in the household.²² Even though E. T. told the fee agent that her husband did not reside with her, as indicated both in her testimony and the fee agent interview form stating that there were no people living in the household other than those listed on the application, her application also stated that she and her husband would be filing joint taxes. This created an ambiguity which justified the Division's inquiry.

The next question to be answered is whether E. T. provided the information pertaining to her husband to the Division. E. T. testified that she told the fee agent that he was not in her home. The evidence, as a whole, shows that occurred during the application process, and not in response to the Division's inquiry. The evidence, consisting of Division records and Ms. Hartley's testimony, showed that all she provided in response to the inquiry was her children's social security information. Accordingly, it is more likely true than not true that E. T. did not respond to the Division's request for information about her husband.

The next step is to determine whether E. T. failed to comply with the information request or refused to comply. The SNAP program distinguishes between a failure to comply and a refusal to comply. A failure to comply would not be grounds for a termination, whereas a refusal to comply would be grounds for termination.²³ Because E. T. was able to respond to the information request for her children's social security information, she also had the ability to respond to the Division's question about her husband. Regardless of whether she thought the Division's information request about her husband had already been answered, the weight of the evidence leads to the conclusion that she deliberately did not respond to that request. This is a refusal to provide the requested information, which means that the Division had valid grounds to terminate her benefits at the end of August 2022.

The question then arises as to whether E. T. must repay the benefits that she subsequently received during the months of September, October, and November of 2022. The Division has not claimed fraud and the evidence shows E. T.'s receipt of ongoing benefits was due to the fact that the Division did not determine E. T.'s lack of compliance until after it had already issued benefits for the months of September, October, and November of 2022. This was the Division's error.

²² 7 C.F.R. §§ 273.9 and 273.10.

²³ 7 C.F.R. § 273.2(d)(1).

The federal statute that addresses SNAP 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 SNAP 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 SNAP recipients.²⁴ Even though the overpayment was caused by the Division’s error when it counted E. T.’s husband as part of the household when it calculated the household monthly benefit amount, the Division is required to recover the overpaid benefits, which it reduced to \$360 from its original claim of \$5,305.

IV. Conclusion

The Division’s determination that E. T. is required to reimburse the Division \$360 for overpaid SNAP benefits is AFFIRMED.

DATED: April 14, 2023.

Signed _____
Lawrence A. Pederson
Administrative Law Judge

²⁴ *Allen v. State*, DHSS 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

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 25th 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.]