



information on January 12, 2023. That information showed that she is paid twice per month, and that her employment income in December 2022 and the first part of January 2023 was as follows:

<u>Check Date</u>	<u>Check Amount - Gross</u>
December 15, 2022	\$1,633.65
December 30, 2022	\$1,511.87
January 13, 2023	\$ 897.35 <sup>6</sup>

Income information provided later by S. B. shows the following income:

<u>Check Date</u>	<u>Check Amount - Gross</u>
January 31, 2023	\$ 909.08
February 15, 2023	\$ 845.43
February 28, 2023	\$1,915.66
March 15, 2023	\$ 721.40
March 31, 2023	\$1,365.71
April 14, 2023	\$ 639.29
April 28, 2023	\$1,343.08 <sup>7</sup>

The variation in S. B.'s paychecks is due to two reasons. First, she is paid hourly and when there are school holidays, Thanksgiving, Christmas, etc., she does not get paid. Second, she must take monthly trips to Anchorage for a child's medical appointments, which require her to take unpaid leave from her job.<sup>8</sup>

In addition to S. B.'s employment income, S. B. and the two minor children each receive Social Security survivor benefits. Those benefits were \$494 per month apiece in December 2022, which totaled \$1,482 per month. In January 2023, the benefit amount increased to \$537 per month apiece, which totaled \$1,611 per month.<sup>9</sup> The household also receives \$125 per month as rental income.<sup>10</sup>

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<sup>6</sup> Exs. 3.4 – 3.7.

<sup>7</sup> Paystubs submitted by S. B. on May 11, 2023.

<sup>8</sup> S. B.'s testimony.

<sup>9</sup> Exs. 3.8 – 3.10.

<sup>10</sup> Ex. 3.11.

J. J. had only exceedingly limited income during this time. The only pay he received was \$76.43 in gross income in November of 2022, which was as an on-call jail guard for the village.<sup>11</sup>

After the Division received S. B.'s application and financial information but before it had decided on S. B.'s application, S. B. emailed the Division on February 20, 2023 inquiring about the status of her application. In her email, she stated "[m]y son J. J. has been in Village A with his girlfriend majority of the time, so do I still keep him on or do I have him on my list but marked [as] not included?" That email also stated that J. J. was "trying to find out if they will be doing GED classes up in Village A and if he can he will be trying to get enrolled."<sup>12</sup> S. B.'s testimony was that J. J. was in the home about half of the time. However, her testimony on this point was vague, and, in contrast to her email, indicated that J. J. possibly began working on his GED in Village A in October 2022.<sup>13</sup>

The Division notified S. B. on April 6, 2023 that her recertification application was denied because it determined that her household's monthly gross income exceeded the gross income limit for her household size. In making that determination, it found that she had a household of three people, which did not include J. J., and it counted S. B.'s work income and the Social Security benefits that she and the two minor children receive.<sup>14</sup>

### **III. Discussion**

SNAP is a federal program which is administered by the State of Alaska.<sup>15</sup> To administer the program in Alaska, the Alaska Department of Health has adopted the federal regulations governing the program.<sup>16</sup> Accordingly, the decision in this case is governed by the federal SNAP regulations.<sup>17</sup>

The Division denied S. B.'s application because it calculated that her total household gross monthly income exceeded the limit for her household size. S. B. made the threshold argument that the test should not be for gross income, but rather for net income. The SNAP federal regulations expressly require that an applicant's initial eligibility for SNAP benefits is

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<sup>11</sup> Exs. 3.1 – 3.2; S. B.'s testimony.

<sup>12</sup> Ex. 3.12.

<sup>13</sup> S. B.'s testimony.

<sup>14</sup> Ex. 4.

<sup>15</sup> 7 C.F.R. § 271.4(a).

<sup>16</sup> 7 AAC 46.010.

<sup>17</sup> The applicable regulations are located at 7 C.F.R. § 273.1 *et. seq.*

determined by looking at their gross income.<sup>18</sup> If a household's gross monthly income is not greater than the gross monthly income limit for its household size, then and only then is the net income used to determine eligibility and benefit levels.<sup>19</sup> Accordingly, S. B.'s argument is noted. However, due to the requirements set out in the federal SNAP regulations, the Division is required to first look at whether S. B.'s total household monthly gross income exceeds the gross income limit for her household size.

S. B. has the burden of proof in this case by a preponderance of the evidence because the case involves the denial of a recertification application for SNAP benefits.<sup>20</sup> There is an initial factual issue that needs to be resolved: was J. J. a member of her household? This is important because the gross monthly household income limit for a three-person household is \$3,119, while the gross monthly household income limit for a four-person household is \$3,759.<sup>21</sup> If the answer to the question about J. J. is yes, then her household size is four people. If no, her household size is three people.

S. B.'s testimony provided that her son J. J. had been in and out of her home, partially staying in Village A and partially staying in her home. Her email of February 2023 said he was out of the home and would be starting to try to work on his GED in Village A. Her testimony on this point was vague and provided that she thought he was in Village A working on his GED in possibly October 2022. While she stated that he was in her home over half the time, her testimony on this point was also somewhat vague. Given these factors, her testimony was insufficient to demonstrate that J. J. was in her home the majority of the time from December 2022 onward. Consequently, S. B. did not satisfy her burden of proof on this factual issue. This means that S. B.'s SNAP household did not include J. J. and consisted of three people: S. B. and her two minor children.

The next issue to be resolved is whether S. B.'s gross monthly household income exceeded the three-person household income limit of \$3,119. The evidence shows that her household income in the months of December 2022, and for January through April 2023, not including the rental income of \$125 per month, was as follows:

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<sup>18</sup> 7 C.F.R. § 271.9(a)(1)(ii).

<sup>19</sup> 7 C.F.R. § 271.9(a)(2)(ii).

<sup>20</sup> Because of the manner in which the Food Stamp program is administered, each recertification application involves an independent and new eligibility determination. *See Banks v. Block*, 700 F.2d 292, 296 – 297 (6<sup>th</sup> Cir. 1983). S. B. therefore has the burden of proof.

<sup>21</sup> Ex. 8.

<u>Month</u>	<u>Social Security</u>	<u>Pay - Gross</u>	<u>Total - Gross</u>
December 2022	\$1,482.00	\$3,145.52 <sup>22</sup>	\$4,627.52
January 2023	\$1,611.00	\$1,806.43 <sup>23</sup>	\$3,417.43
February 2023	\$1,611.00	\$2,761.09. <sup>24</sup>	\$4,372.09
March 2023	\$1,611.00	\$2,087.11 <sup>25</sup>	\$3,698.11
April 2023	\$1,611.00	\$1,982.37 <sup>26</sup>	\$3,593.37

As shown above, S. B.'s employment income varied widely in the five months of pay information that she provided, ranging from a low of \$1,806.42 gross wages in January of 2023 to a high of \$3,145.52 gross wages in December of 2022. However, when her gross wages are combined with the household Social Security income, the household monthly income exceeded the household gross monthly income limit of \$3,119, not only for the month of her application but also for each month through April of 2023.<sup>27</sup>

The Division when it reviews SNAP applications looks at eligibility for both the month of the application and for the month following the application. If financial eligibility is established for the month of the application, and it appears that the household will not be eligible for benefits for the following month, the application is only approved for the first month, and denied for the following months. If the household is not eligible for the first month, and eligible for the second month, benefits will be approved effective the second month. The regulations do not require that eligibility be determined beyond the second month if the applicant is not eligible for either the first month (application month) or the second month.<sup>28</sup>

In summary, the evidence shows that S. B.'s gross monthly household income exceeded the SNAP income limit of \$3,119 for her three-person household continuously from December

<sup>22</sup> \$1,633.65 received on December 15, 2022; \$1,511.87 received on December 30, 2022.

<sup>23</sup> \$897.35 received on January 13, 2023; \$909.08 received on January 31, 2023.

<sup>24</sup> \$845.43 received on February 15, 2023; \$1,915.66 received on February 28, 2023.

<sup>25</sup> \$721.40 received on March 15, 2023; \$1,365.71 received on March 31, 2023.

<sup>26</sup> \$639.29 received on April 14, 2023; \$1,343.08 received on April 28, 2023.

<sup>27</sup> This information is provided because in the case of wide fluctuations in monthly income, averaging the income over a period of time is sometimes done. *See* 7 C.F.R. § 273.10(c)(3). However, because S. B.'s household income exceeded the applicable limit for each of the months in question, it is not necessary to average her monthly gross household income because it would not benefit her.

<sup>28</sup> 7 C.F.R. § 273.10(a)(3); *Alaska SNAP Manual* § 601-5 A ([http://dpaweb.hss.state.ak.us/manuals/fs/fsp.htm#t=601%2F601-5.htm%23601\\_5\\_a\\_approving\\_the\\_application](http://dpaweb.hss.state.ak.us/manuals/fs/fsp.htm#t=601%2F601-5.htm%23601_5_a_approving_the_application) dated accessed May 31, 2023).

2022 through April of 2023. The Division was therefore required to deny her December 30, 2022 recertification application for SNAP benefits.

**IV. Conclusion**

The denial of S. B.'s December 30, 2022 SNAP recertification application is  
AFFIRMED.

DATED: May 31, 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 14<sup>th</sup> day of June, 2023.

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

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