



knowledge and that the individual has read and understood the “rights and responsibilities” section of the application.<sup>5</sup>

Ms. U. initially applied for and received food stamps from January 2017 through January 2018, and ATAP from January 2018 through August of 2018.<sup>6</sup> Regarding her cash resources, she listed a single checking account, a savings account, and on one of the applications, a life insurance policy.<sup>7</sup> Ms. U. signed both applications verifying the veracity of the application and acknowledging her rights and responsibilities.<sup>8</sup>

Ms. U. also attended in person interviews with a Division representative regarding the ATAP and food stamp applications she submitted on January 13, 2017, and January 10, 2018.<sup>9</sup> She again asserted that her only accessible cash resources were a savings account and a checking account with limited funds, employment income, and money borrowed from her life insurance policy.<sup>10</sup> During the interviews she was informed of the ramifications of giving false or misleading answers in an application for benefits.<sup>11</sup> Ms. U. indicated in both interviews that she understood her rights and responsibilities as a benefits applicant and recipient.<sup>12</sup>

In June of 2018 the Division pended Ms. U.’s ATAP and food stamp applications, as she reported for the first time that she had a Vanguard Mutual Fund.<sup>13</sup> She submitted additional information indicating that the fund account held almost \$20,000, potentially putting her over the household resource limit.<sup>14</sup> Mr. Vance Canoy, an investigator for the Division, unsuccessfully requested verification of this account directly from Vanguard, which declined to release account information to the Division.<sup>15</sup> Therefore, the details of the fund could not be verified. Mr. Canoy then sought records from No Name Bank, which released records showing that Ms. U. also held two additional, previously undisclosed bank accounts during the time she was applying for benefits.<sup>16</sup> The accounts held a combined balance of \$7,529.94 and \$2,268.60 at the time of her first and second interviews with the Division, respectively.<sup>17</sup> Deposit and withdrawal

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<sup>5</sup> *Id.*  
<sup>6</sup> Ex. 1.  
<sup>7</sup> *Id.*  
<sup>8</sup> Ex. 7.  
<sup>9</sup> Ex. 9.  
<sup>10</sup> *Id.* See also Ex. 7.  
<sup>11</sup> *Id.*  
<sup>12</sup> *Id.*  
<sup>13</sup> Ex. 10.  
<sup>14</sup> Ex. 11.  
<sup>15</sup> Ex. 12, testimony of Mr. Canoy.  
<sup>16</sup> Ex. 13, testimony of Mr. Canoy.  
<sup>17</sup> Ex. 13. See also Ex. 1.

records indicated that Ms. U. had access to these funds during the time she was receiving ATAP benefits and food stamps.<sup>18</sup>

Because Ms. U. did not declare these additional accounts on her applications or during her in person interviews, she was issued benefits for which she did not qualify.<sup>19</sup> The Division calculated that Ms. U. received \$6,136 in overpaid ATAP and food stamp benefits for the months of January 2017 through January of 2018.<sup>20</sup>

The Division requested an Administrative Disqualification Hearing to ask that Ms. U be temporarily disqualified from the ATAP and food benefit programs, and that she be required repay the full amount of overpaid benefits.<sup>21</sup>

The Division sent Ms. U. a packet including the information forming the basis of this case, as well as notice of the hearing date and time, by certified, return receipt mail on October 21, 2019.<sup>22</sup> The United States Postal Service (USPS) tracking system showed it was delivered on October 24, 2019.<sup>23</sup> The Division sent a duplicative packet to Ms. U. on November 12, 2019.<sup>24</sup> The USPS tracking system showed it was delivered on November 16, 2019.<sup>25</sup> It was established that Ms. U., therefore, received adequate notice of the basis of the allegations brought by the Division, as well as notice of the scheduled hearing before the Office of Administrative Hearings.

The hearing in this matter took place as scheduled on November 26, 2019 at 9:00 a.m. Ms. U. did not attend the hearing, and she could not be reached by telephone. Accordingly, the hearing proceeded in Ms. U.'s absence as permitted by 7 C.F.R. § 273.16(e)(4) and 7 AAC 45.585(b)(1). The Division was represented by Vance Canoy, an Investigator II. Virginia Abnett, an Eligibility Technician, testified on behalf of the Division, as did Amber Champagne, an Eligibility Quality Control Technician. Exhibits 1 – 10 and 12-15 were admitted into evidence without objection. Exhibit 11 was also admitted, except for pages 3, 4, 8 and 10 which were illegible. Following the hearing, the record was held open for ten days to allow Ms. U.

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<sup>18</sup> *Id.*  
<sup>19</sup> Ex. 15.  
<sup>20</sup> Ex. 1.  
<sup>21</sup> *Id.*  
<sup>22</sup> Ex. 3.  
<sup>23</sup> Ex. 4.  
<sup>24</sup> Ex. 5.  
<sup>25</sup> Ex. 6.

additional opportunity to contact the Office of Administrative Hearings about her participation in this matter.<sup>26</sup> The record closed with no further contact from either party.

### **III. Discussion**

#### *A. The Division established an IPV of the Food Stamp program*

In order to establish an IPV of the Food Stamp program, the Division must prove by clear and convincing evidence that Ms. U. intentionally “made a false or misleading statement, or misrepresented, concealed, or withheld facts.”<sup>27</sup> In order to prove the violation by “clear and convincing evidence,” the Division must show that “the truth of the asserted facts is highly probable.”<sup>28</sup> The Division met its burden in this case.

Ms. U. had control of four bank accounts bank accounts when she initially applied for food stamps in January 2017, and then again when she reapplied in January of 2018.<sup>29</sup> When asked to list the resources available to the household in her applications, she only reported two bank accounts, both of which contained limited funds. She failed to disclose the two additional bank accounts which held a fluctuating combined balance between \$7,529.94 and \$2,268.60 at the time of her interviews with Division Eligibility Technicians in 2017 and 2018. On multiple occasions, therefore, Ms. U. misrepresented that she only had control of two bank accounts, not four, and that she had very limited accessible funds.

Further, Ms. U.’s misrepresentation was intentional. All four bank accounts were held at No Name Bank. Additionally, the bank records show that during the time she was receiving benefits Ms. U. was routinely making deposits and withdrawals on the nonreported accounts.

During the 2017 and 2018 interviews with a Division Eligibility Technician, Ms. U. responded to specific and direct questions about her financial resources, and her understanding about her rights and responsibilities as an applicant, and again, despite her awareness of those responsibilities, falsely claimed to only have two bank accounts. Ms. U. also falsely certified that she had provided true and correct information on the January 2017 and January 2018 application forms.

The only reasonable inference to be drawn from Ms. U.’s repeated failure to accurately respond to questions about her household resources, and her repeated certification of that incorrect information as true, is that Ms. U. consciously withheld this information, and that the

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<sup>26</sup> See 7 AAC 45.585(c).

<sup>27</sup> 7 C.F.R. § 273.16(c).

<sup>28</sup> *Saxton v. Harris*, 395 P.2d 71, 72 (Alaska 1964).

<sup>29</sup> Ex. 1, Ex. 13.

omission was not merely inadvertent, but rather intentional. Therefore, she has committed an IPV.

Federal food stamp law provides that a twelve-month disqualification must be imposed on any individual found to have committed a first IPV.<sup>30</sup> Because this is Ms. U.'s first IPV of the food stamp program, she is disqualified for food stamp benefits for 12 months.<sup>31</sup>

*B. The Division established an IPV of the Alaska Temporary Assistance Program*

In order to establish an IPV of ATAP, the Division must prove by clear and convincing evidence that Ms. U. intentionally misrepresented, concealed, or withheld a material fact “for the purpose of establishing or maintaining a family’s eligibility for ATAP benefits.”<sup>32</sup> The same evidence establishing an IPV of the food stamp program likewise satisfied the Division’s burden of proving an IPV of ATAP.

As discussed above, Ms. U. intentionally misrepresented material facts about her financial resources when she failed to inform the Division of two additional bank accounts she controlled. The information withheld was material to the household’s benefit eligibility because the monies held in the unreported accounts would have affected the household’s benefit eligibility, or the amount of benefits to which the household was entitled.

The Division has therefore met its burden of proving that Ms. U. committed an IPV of ATAP. Because this is her first IPV of ATAP, she is therefore disqualified from receiving Temporary Assistance benefits for six months.<sup>33</sup>

#### **IV. Conclusion and Order**

The Division met its burden to show clear and convincing evidence that Ms. U. committed IPV’s as defined by both the food stamp and ATAP regulations. This is Ms. U.’s first known IPV for both programs.<sup>34</sup> Because of the violations, Ms. U. is disqualified from receiving ATAP benefits for a six (6) month period and food stamps for a twelve (12) month period.<sup>35</sup>

The food stamp disqualification period shall begin one month after the issuance of the notice of disqualification by the Final Decisionmaker, as will her disqualification from ATAP if she is a current ATAP recipient.<sup>36</sup> If she is not a current ATAP recipient, however, her

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<sup>30</sup> 7 C.F.R. § 273.16(b)(1)(i).

<sup>31</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>32</sup> 7 AAC 45.585(d); 7 AAC 45.580(n).

<sup>33</sup> AS § 47.27.015(e)(1); 7 AAC 45.580(d).

<sup>34</sup> Ex. 1.

<sup>35</sup> AS § 47.27.015(e)(1); 7 AAC 45.580(d); 7 C.F.R. § 273.16(b)(1).

<sup>36</sup> 7 USC 2015(b)(1)(i); 7 C.F.R. § 273.16(b)(13); 7 AAC 45.580(f).

disqualification period shall be postponed until she applies for, and is found eligible for, ATAP benefits.<sup>37</sup>

This disqualification from ATAP and the food stamp program applies only to Ms. U. and not to any other individuals who may be included in her current household.<sup>38</sup> For the duration of the disqualification period, Ms. U.'s needs will not be considered when determining eligibility for public benefits and benefit amounts for her household.<sup>39</sup> However, Ms. U. must report her income and resources as they may be used in these determinations.<sup>40</sup>

The Division shall provide written notice to Ms. U. and any remaining household members of the benefits they will receive during the period of disqualification, or that they must reapply because the certification period has expired.<sup>41</sup> Ms. U., or any remaining household members, are also required to reimburse the Division for any food stamp or ATAP benefits that were overpaid as a result of her IPVs, if Ms. U. has not already made restitution.<sup>42</sup> If Ms. U. disagrees with the Division's calculation of the amount of over-issuance to be repaid, she may request a separate hearing on that limited issue.<sup>43</sup>

DATED: December 26, 2019.

By: Signed  
Danika B. Swanson  
Administrative Law Judge

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<sup>37</sup> 7 AAC 45.580(g).

<sup>38</sup> 7 C.F.R. § 273.16(b)(11); 7 AAC 45.580(e)(1).

<sup>39</sup> 7 C.F.R. § 273.16(c)(1)(ii); 7 AAC 45.580(e)(1).

<sup>40</sup> 7 C.F.R. § 273.11(c)(1)(i); 7 AAC 45.580(e)(3).

<sup>41</sup> 7 C.F.R. § 273.16(e)(9)(ii); 7 AAC 45.580(k).

<sup>42</sup> 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii); 7 AAC 45.570(b).

<sup>43</sup> 7 C.F.R. § 273.15; 7 AAC 45.570(l).

## 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 9<sup>th</sup> day of January, 2020.

By: Signed  
Signature  
Danika Swanson  
Name  
Administrative Law Judge  
Title

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