

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

In the Matter of)

F. Q.)

) OAH No. 25-0379-SNA
)

DECISION

I. Introduction

The Division of Public Assistance administers Alaska’s Supplemental Nutrition Assistance Program (“SNAP”).¹ Because SNAP is a federal program, states are bound by the requirements and restrictions set out in federal laws. One such restriction is a federal limit on the replacement of stolen SNAP benefits. The appropriations act which had previously allowed the replacement of up to two months of benefits stolen through card skimming, card cloning, and other similar fraudulent methods, expired on December 20, 2024.² Currently no authority exists authorizing the replacement of any amount of stolen electronic SNAP benefits.

F. Q. received several months of benefit deposits onto his Quest card on December 19, 2024, due to a delay in processing his August 2024 eligibility review form (GEN 72). He became the victim of theft of his electronic SNAP benefits through unauthorized transactions which occurred in New York City, on January 1, 2025. He timely reported these stolen benefits to the Division of Public Assistance (Division) and requested reimbursement of the stolen funds. The Division denied his request based upon the lack of authority allowing for their replacement. Mr. Q. requested a hearing to assert that despite the expiration of the federal law on December 20, 2024, he was eligible to receive the replacement of at least two months’ worth of SNAP benefits.

An evidentiary hearing, limited to the issue of when the benefits were stolen, was held on May 16, 2025. Mr. Q. was represented by Attorney Mary Geddes. Ms. Geddes called the following witnesses from the Division on behalf of Mr. Q.: Rachelle Carle, Public Assistance Analyst 1, Jennifer Leffew, Public Assistance Analyst 2. Mr. Q. also testified on his own behalf.

¹ AS 47.25.975.

² Consolidated Appropriations Act 2023, PL 117-328; Continuing Appropriations and Extensions Act, 2025, PL 118-83.

The Division was represented by AAG Justin Nelson. The Division did not call any additional witnesses. Division Exhibits 1-36 and Claimant Exhibits A-U were admitted.³

Because there is no basis under which Mr. Q. has shown that the Division is authorized to replace any amount of his stolen electronic SNAP benefits, the Division's decision is AFFIRMED.

II. Facts

A. Material Facts

F. Q. is a current SNAP recipient living in Anchorage, Alaska. On August 1, 2024, his monthly benefit amount of \$374 was available for use on his Quest card ending "0000".⁴ This is the Quest card Mr. Q. has had in his possession and has used without incident for several years.⁵ Records show he used this card for food purchases in Anchorage, Alaska through August 11, 2024, leaving a balance on the card of \$193.91.⁶ Mr. Q. conducted a balance inquiry through the telephone inquiry system on September 1, 2024, and received a reported balance of \$193.91.⁷

Beginning on September 2, 2024, several unauthorized transactions in New York were made on the card, reducing the available balance to \$.70.⁸ Mr. Q. attempted a transaction at the Red Apple Market in Anchorage on September 18, 2024, which was declined for insufficient funds.⁹ Mr. Q. did not report to the Division the loss of the \$193.21, which was spent between his telephonic balance inquiry and his attempted transaction on September 18, 2024.¹⁰

On August 30, 2024, the Division received a Gen 72 from Mr. Q..¹¹ Mr. Q.' monthly SNAP benefits were stopped pending the processing of his August 2024 Gen 72 and therefore he did not receive benefit deposits for September 2024 through November 2024.¹² Unfortunately, due to the processing backlog at the Division, Mr. Q.' Gen 72 was not processed until December

³ Both the Division and Mr. Q. objected to various exhibits. All exhibits submitted by both parties were admitted as relevant to the arguments or background.

⁴ Div. Ex. 29, p. 2.

⁵ Testimony of F. Q..

⁶ Div. Ex. 29, p. 2.

⁷ Div. Ex. 34, p. 2; *see also* Testimony of Rachelle Carle.

⁸ Div. Ex. 29, pp. 1-2; *see also* Testimony of F. Q..

⁹ Div. Ex. 29, p. 1. This location has shown up in a number of stolen benefit cases before OAH as a point-of-sale location immediately preceding unauthorized transactions on Quest cards.

¹⁰ Testimony of F. Q..

¹¹ Div. Ex. 1

¹² Testimony of F. Q.; *See also* Testimony of Jennifer Leffew.

18, 2024.¹³ Because he had not received his monthly benefit amount since August 2024, the Division made four deposits of \$374 each onto his Quest card on December 18, 2024, for the missing four months of benefit payments.¹⁴

Mr. Q.'s balance was \$1,505.70, when his benefit funds became available for use on December 19, 2024.¹⁵ He made a purchase of \$210.61 in Anchorage on December 28, 2024. His January benefits of \$202, were loaded to the card on December 30, 2024, bringing his available balance to \$1,497.09 on January 1, 2025.¹⁶ Five unauthorized transactions totaling \$1,497 were made in Brooklyn, New York on January 1, 2025.¹⁷ When Mr. Q. attempted to use his card on January 4, 2025, he received insufficient funds notifications.¹⁸

In addition to the telephone-based balance inquiry tool available to recipients, there is also a web-based application. Both tools allow recipients to view the balance and recent transaction dates and the amounts.¹⁹ After receiving the insufficient funds notifications, Mr. Q. accessed the web-based application and learned that there had been a series of transactions on January 1, 2025, between 9:00 p.m. and 9:04 p.m., that were not made by him.²⁰ He contacted the Division on January 6, 2025, and filed a Report of Electronic Theft of SNAP Benefits (Gen-171).²¹ The Gen-171 form notifies the recipient, through an acknowledgement section on the signature page, that the replacement of benefits due to theft is only available for thefts that occurred between 10/01/2022 through 12/20/2024.²² The Division issued a formal Stolen Benefit Claim Denial on January 9, 2025, notifying Mr. Q. that the temporary provisions allowing the replacement of electronically stolen benefits had expired and that benefits stolen after December 20, 2024, were no longer eligible for replacement.²³

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¹³ Div. Ex. 19; *see also* Testimony of Jennifer Leffew. A request for fair hearing was filed by Mr. Q. on November 21, 2024, regarding the processing delay of his August 2024 recertification, *see* Claimants Ex. C.

¹⁴ Div. Ex. 29, p. 1; *see also* Testimony of Jennifer Leffew.

¹⁵ Div. Ex. 29, p. 1; *see also* Testimony of Rachelle Carle.

¹⁶ Div. Ex. 29, p. 1.

¹⁷ Div. Ex. 29, p. 1; *see also* Testimony of F. Q..

¹⁸ *Id.*

¹⁹ Testimony of Rachelle Carle; *see also* Testimony of F. Q.. Neither option appears to provide information to the cardholders regarding where the transactions occurred.

²⁰ Testimony of F. Q..

²¹ Div. Ex. 2-2.1.

²² Div. Ex. 2.1.

²³ Div. Ex. 3.

B. Procedural History

Mr. Q. requested a fair hearing on the Division's denial to replace his stolen benefits and a referral was made to OAH.²⁴ Mr. Q. filed several pleadings setting forth several arguments upon which he asserted he should recover a minimum of two months' worth of the stolen benefits. The Division filed a Motion for Dismissal and a pre-hearing brief responding to Mr. Q.' arguments. A limited evidentiary hearing was held on May 16, 2025, focusing primarily on when Mr. Q.' card information was compromised. Mr. Q. presented two witnesses from the Division, Rachelle Carle and Jennifer Leffew, who addressed the documentation surrounding Mr. Q.' case, Quest card transactions and various reports the Division can access related to Quest cards. Mr. Q. testified on his own behalf regarding his actions and knowledge about transactions on his Quest card and his communications with the Division.

III. Discussion

The Supplemental Nutrition Assistance Program ("SNAP") is a federal program administered by individual states, with the state agency responsible for adhering to the federal program requirements.²⁵ Aware of increased reports of electronic benefit theft (EBT) due to card skimming, cloning, and similar fraudulent methods, the U.S. Department of Agriculture issued a memo on January 31, 2023, directing agencies to the Consolidated Appropriations Act 2023, signed into law December 29, 2022, which included provisions for the replacement of stolen EBT benefits with Federal funds.²⁶ It was through this federal law that the Division had been able to replace stolen SNAP benefits. The Continuing Appropriations Act, 2025, extended the eligibility period for replacement to include benefits stolen up to December 20, 2024.²⁷ However, the federal government did not extend the replacement period to benefits stolen after December 20, 2024.²⁸

Regulations govern the scope of administrative review in SNAP benefit cases. The administrative tribunal is limited to assessing whether the applicable laws, regulations, and policies were correctly applied at the time of the decision and as supplemented by evidence at a

²⁴ Div. Ex. 7.

²⁵ 7 C.F.R. § 271.4(a)

²⁶ Consolidated Appropriations Act, 2023 (P.L. 117-328), December 29, 2022; *see also* Div. Ex. 35.

²⁷ Continuing Appropriations and Extensions Act, 2025 (P.L. 118-83), September 30, 2024.

²⁸ American Relief Act, 2025 (P.L. 118-158), December 21, 2024.

hearing, and whether any disputed benefit amounts were accurately calculated in accordance with those correct applications.²⁹

Mr. Q. argues that the Division failed to correctly apply the applicable laws, regulations and policies at the time it denied the replacement of any amount of his timely reported stolen benefits and that the supplemental evidence elicited during the hearing supports that the Division's decision was in error. Mr. Q.' arguments will be addressed separately below.

A. Burden of Proof

The parties agree that Mr. Q. bears the burden of proof in this matter. He must show by a preponderance of the evidence that he is entitled to the replacement, in whole or in part, of his stolen SNAP benefits.

B. Evidence that Mr. Q.' card information was compromised before December 20, 2024, does not entitle him to the replacement of benefits that were stolen after December 20, 2024

Mr. Q. contends that the theft of electronic SNAP benefits starts when the account information is compromised, not at the point that a successful unauthorized transaction occurs. He argues that the date of compromise should determine eligibility for replacement of the stolen benefits.³⁰ Evidence suggests that Mr. Q.' card data was compromised in August or September 2024, as indicated by balance inquiries made from out-of-state telephone numbers and telephone numbers not associated with his Division profile.³¹ Mr. Q. also testified that he has never traveled outside of Alaska or used his Quest card out of the state.³²

Recipients are not limited to using in-state telephone numbers or telephone numbers associated with their profile for telephonic balance inquiries. While this information is not conclusive, it may assist in determining whether a recipient's card has been compromised.³³ The most definitive evidence that Mr. Q.' card information was compromised before December 20, 2024, includes the unauthorized transactions on September 2, 2024, in New York, which resulted in the theft of \$193.21 of his SNAP benefits.³⁴ However, Mr. Q. did not report this theft to the Division.³⁵

²⁹ 7 AAC 49.170.

³⁰ Claimant's Pre-hearing Brief filed April 18, 2025, p. 7.

³¹ Div. Exhibits 29, 30, 33, and 34, pp. 1-2; *see also* Testimony of Rachelle Carle.

³² Testimony of F. Q..

³³ Testimony of Rachelle Carle; *see also* Div. Ex. 36, p. 4.

³⁴ Div. Ex. 29, pp. 1-2; *see also* Testimony of F. Q..

³⁵ Testimony of F. Q..

There is no dispute that \$1,497 in unauthorized transactions occurred in Brooklyn, New York, on January 1, 2025, and that Mr. Q. reported this loss timely. He contends that because his card information was compromised before December 20, 2024; he is eligible for the replacement of two months' worth of the stolen benefits.

Mr. Q. cites no legal authority for the proposition that the relevant date of theft for purposes of determining eligibility for the replacement of stolen benefits is when the card information is compromised. In the context of the EBT benefit fraud prevention law, "theft of benefits" clearly refers to the loss of the monetary benefits by a successful completion of an unauthorized transaction.³⁶ USDA guidance also clarifies the "date of theft" through calculation examples. For instance:

If a theft occurs over the course of several transactions and several days, calculations for the amount of replacement benefits will be determined based on the date of the first occurrence of theft. For example, a household receives their \$200 monthly allotment on June 15, 2023, but realizes and reports on June 20 that \$250 in benefits were stolen in multiple transactions between June 17 and June 18. In this situation, the June 15 allotment is the monthly allotment that took place immediately prior to June 17, the first date of theft.³⁷

Applying this framework to Mr. Q.' case, the theft of his benefits occurred on January 1, 2025 – the date of the unauthorized transactions and thus after the December 20, 2024, replacement deadline. Therefore, the Division's decision denying the replacement of any amount of Mr. Q.' stolen benefits is AFFIRMED.

C. AS 45.48.010 does not require the Division to replace Mr. Q.' stolen benefits

OAH is not the proper tribunal to review the broader determination of whether the Division violated AS 45.48.010. However, to the extent that Mr. Q. contends that this statute mandates the Division to replace Mr. Q.' stolen SNAP benefits, review confined to this remedy argument is proper.

Mr. Q. argues that the Division should have detected his card was compromised due to balance inquiries from unknown and out-of-state telephone numbers and out-of-state transactions

³⁶ 7 USC 2016a(a)(1).

³⁷ Div. Ex. 36, p. 2, USDA Guidance Letter, Replacement of SNAP Benefits in Consolidated Appropriations Act of 2023, January 21, 2023.

in September 2024. He claims AS 45.48.010 required the Division to notify him his card was compromised and its failure to do so violated AS 45.48.010. He further asserts that the remedy for such violation requires the Division to replace the entire amount of his benefits stolen in January 2025.

It is unclear whether AS 45.48.010 applies to card information stolen by skimming since the statute focuses on breaches of information systems.³⁸ This tribunal will not decide the applicability of the statute nor whether any violation occurred in this case. Focusing solely on the remedy argument, the statute makes clear that the only remedy available after discovery by the Division is disclosure of the breach.³⁹ Mr. Q. provides no authority that the statute provides for any remedy requiring the replacement of stolen SNAP benefits. Because this tribunal is not the proper forum to decide a violation of AS 45.48.010 and because AS 45.48.010 does not provide a SNAP recipient with any remedy requiring the replacement of stolen SNAP benefits, the issue of whether the Division violated AS 45.48.010 DISMISSED and the Division's decision to deny the replacement of Mr. Q.' stolen benefits is AFFIRMED.

D. Restoration of benefits is not synonymous with replacement of benefits

Mr. Q. argues that the failure to timely process his August 2024 recertification within the mandates of 7 USC 2020(e)(3) and 7 CFR 273.2(g)(1) are the equivalent of the Division failing to provide his benefits due to an eligibility error. He asserts that it therefore stands to reason that the entire amount of his January 2025 stolen benefits must be replaced pursuant to 7 CFR 273.17.

The loss 7 CFR 273.17 addresses, however, is the wrongful withholding of household benefits due to an error regarding eligibility or a finding of administrative disqualification.⁴⁰ Mr. Q.'s argument attempts to extend the regulation's language to processing delays as the error that caused the theft of paid benefits. As the Division pointed out, restoration of benefits and replacement of stolen benefits are not the same thing. This argument attempts to create a remedy to recipients for processing delays, that does not exist. The remedy for processing delays is set forth in regulation and is limited to providing retroactive payment of benefits back to the

³⁸ AS 45.48.010(a).

³⁹ AS 45.48.010(a) and (b).

⁴⁰ 7 CFR 273.17 (1) and (2).

date of application.⁴¹ Because this regulation does not apply to the replacement of stolen benefits, this claim is DISMISSED.

E. Mr. Q.' request for his SNAP benefits stolen on September 2, 2024, to be replaced by the Division is not properly before this tribunal

Evidence from this appeal and Mr. Q.' testimony indicate that \$193.21 in SNAP benefits were stolen from him on September 2, 2024.⁴² Mr. Q. claims his only means to determine his benefits were stolen in September 2024 is through documents provided by Division in this appeal.⁴³ This statement does not fully reflect the tools available to recipients for monitoring their card transactions.

Mr. Q. is aware of and has used the telephone balance inquiry system.⁴⁴ He conducted a telephone balance inquiry on September 1, 2024, which revealed his \$193.71 balance.⁴⁵ Upon receiving an insufficient funds notice on September 18, 2024, he could have conducted another balance inquiry to review the recent transactions. Mr. Q. testified that he found the telephone balance inquiry and transaction history tool inconvenient, so he preferred to check his available funds by attempting to use the card.⁴⁶ However, the tools available to recipients would have revealed the unauthorized transactions in September 2024. Mr. Q. now uses the web-based application and takes more precautions with changing his PIN number and he should be commended for the enhanced security measures he is taking with his card.

There is no evidence that Mr. Q. filed a Report of Theft of Electronic Snap Benefits for the September 2024 stolen benefits. Therefore, the Division has not received a request to act on the September 2024 stolen benefits. This tribunal is limited to reviewing decisions made by the Division for which a fair hearing request has been filed and referred by the Division.⁴⁷ Accordingly, there is no action by the Division and no referral before OAH regarding the September 2024, stolen benefits. Therefore, Mr. Q.' request to have OAH order the replacement of any benefits stolen in September 2024 is DENIED.

⁴¹ 7 CFR 273.2(h).

⁴² Div. Ex. 29, pp. 1-2; *see also* Testimony of F. Q..

⁴³ Claimant's Response to Divisions' Hearing Brief, filed May 16, 2025.

⁴⁴ Testimony of F. Q..

⁴⁵ Div. Ex. 34, p. 2; *see also* Testimony of Rachelle Carle.

⁴⁶ Testimony of F. Q..

⁴⁷ 2 AAC 64.110 and 2 AAC 64.120.

F. Mr. Q.' argument that the Federal Government and/or Division is required to put higher security measures in place for EBT accounts and the lack thereof require the replacement of the full amount of his stolen benefits is not reviewable by this tribunal

Mr. Q. asserts that there are security measures that that could be put in place to reduce the risk of electronic benefit theft and to alert recipients if their account information was compromised. Testimony was elicited that recipients may not have been provided with sufficient information in Alaska regarding the prevalence of electronic benefit theft.⁴⁸ Although it is possible, it is not beneficial to recipients for the Division to block out-of-state transactions altogether, as this will hinder card use when recipients travel. However, it also appears that there are no means of notifying recipients if transactions are occurring on their cards outside of Alaska, alerting them to possible unauthorized transactions.⁴⁹ There may be other security measures, such as using chipped cards which may also provide a higher level of security.

Mr. Q. does not make an argument that any law, regulation or policy that was misapplied on this issue. He appears to be presenting a cause of action in Tort Law by arguing that the Division and/or federal government is acting negligently and that the remedy for such negligence requires the replacement of the entire amount of his stolen benefits. This tribunal has no authority to review negligence claims against the Division. Mr. Q. points to no regulation or statute that allows for the full replacement of stolen benefits under any circumstance. For these reasons this claim is DISMISSED.

IV. Conclusion

The Division properly applied binding federal law that governs the replacement of stolen SNAP benefits. Mr. Q.' benefits were stolen after the expiration of the federal law which allowed for the replacement of the equivalent of two months of benefits. Because no authority currently exists authorizing the replacement of any amount of stolen electronic SNAP benefits, the Division's denial of Mr. Q.' request to replace his stolen benefits is AFFIRMED.

⁴⁸ Testimony of Rachelle Carle; *see also* Testimony of Jennifer Leffew.

⁴⁹ *Id.*

Dated: May 28, 2025

By: Signed
Signature
Beth Goldstein
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.]

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 10th day of July, 2025.

By: Signed
Signature
Daniel R. Phelps II
Name
Process Improvement Manager
Title

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