

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

In the Matter of	)	
	)	
K. G.	)	OAH No. 24-0358-ADQ
_____	)	

**DECISION**

**I. Introduction**

K. G. received Supplemental Nutrition Assistance Program (“SNAP”) and Alaska Temporary Assistance Program (“ATAP”) benefits for November 2022 through April 2023. The amount of these benefits was based on Ms. G.’s representation that she was not employed and had minimal self-employment income. The Department of Health, Division of Public Assistance (“DPA”) initiated this Administrative Disqualification case against Ms. G., claiming that she omitted self-employment income on her application and failed to notify DPA of additional income in later months, thereby receiving greater benefits than she was entitled to. As discussed below, DPA proved by clear and convincing evidence that Ms. G. committed a first-time Intentional Program Violation of the SNAP and ATAP programs. Accordingly, Ms. G. will be barred from SNAP benefits for 12 months and ATAP benefits for six months. Ms. G. will also provide restitution of any overpaid benefits that have not been repaid.

**II. Background**

K. G. submitted an application for SNAP and ATAP benefits on November 15, 2022 for a two-person household including her son.<sup>1</sup> The application requests information about employment and income. Ms. G. stated that she was unemployed, but that she had seasonal income from “crafts,” consisting of \$80 for the month of November with \$50 per month in business expenses and no income expected for the following month.<sup>2</sup> The application further requests annual income where a person’s income varies from month to month. Ms. G. listed \$500 as her annual income.<sup>3</sup>

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<sup>1</sup> Ex. 8 at 3-4.

<sup>2</sup> *Id.* at 5-6.

<sup>3</sup> *Id.* at 7.

DPA interviewed Ms. G. regarding her application on December 30, 2022.<sup>4</sup> According to agency records, Ms. G. stated that the Fairbanks Native Association was helping her with rent and utilities, but that this was about to run out, and that she had received two PFDs which were spent on September 2022 bills.<sup>5</sup> She reported no other income. During the interview, DPA reviewed a written statement of her Rights and Responsibilities under benefit programs.<sup>6</sup> The Rights and Responsibilities statement advised Ms. G. that she needed to notify the agency “[w]hen money you receive from sources other than working changes by more than \$50” and if “[y]our household has more than \$2250 total in cash and money in bank.”<sup>7</sup> This document further advised Ms. G. of her responsibility to repay any overpayments and potential disqualification from SNAP or ATAP for intentional program violations.<sup>8</sup>

DPA approved Ms. G. for SNAP and ATAP benefits for November 2022 through April 2023, based on a household of two with \$30.00 monthly self-employment income.<sup>9</sup>

On February 6, 2023, DPA sent Ms. G. a letter reminding her that she would need to notify the agency within 10 days of a change in her household’s situation, including “[c]hanges in the source of unearned income and changes in the total amount of unearned income of more than \$50 a month” and “[i]f your household has more than \$2000 total in cash and money in bank accounts.”<sup>10</sup>

DPA later reviewed records from Ms. G.’s checking account, for which she is the sole owner.<sup>11</sup> These records show monthly income, through deposits or checks cashed, as follows:<sup>12</sup>

November 2022	\$1,967.24
December 2022	\$1,754.35
January 2023	\$6,695.93
February 2023	\$2,325.68
March 2023	\$202.65

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<sup>4</sup> Ex. 9.

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 1.

<sup>7</sup> Ex. 7 at 1.

<sup>8</sup> *Id.* at 3-4.

<sup>9</sup> Ex. 10 at 3-4.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> Ex. 11 at 7; K. testimony.

<sup>12</sup> Ex. 1 at 5; Ex. 11.

April 2023	\$1,530.56
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The majority of deposits came from Venmo or Zelle, which are private digital payment services.<sup>13</sup> Two of the deposits included a notation that they were for “15 Minutes of Plowing.”<sup>14</sup> The bank records also include a January 6, 2023 cashier’s check for \$5,500; Ms. G. took \$5,000 from this check in cash and deposited the other \$500 in her checking account.<sup>15</sup>

If Ms. G. had reported the income shown by her bank records, it would have significantly decreased the amount of benefits she received during these months. In total, DPA calculated that Ms. G. was overpaid \$832 in SNAP and \$1,655 in ATAP, for a total overpayment of \$2,487.<sup>16</sup>

DPA gave Ms. G. notice that it was proceeding with this administrative disqualification matter.<sup>17</sup> DPA mailed notice of a July 11 hearing on June 5, 2024.<sup>18</sup> Ms. G. received that notice on June 10, 2024.<sup>19</sup> She emailed DPA and OAH the following day inquiring about DPA’s evidence.<sup>20</sup> A DPA representative responded to Ms. G. on June 19, 2024 advising her that the agency’s supporting evidence would be mailed the following week.<sup>21</sup> DPA mailed these documents to Ms. G.’s post office box on June 25, 2024.<sup>22</sup> Despite being notified of the upcoming hearing and advised that documents were being sent to her, Ms. G. did not retrieve her mail until July 8, 2024.<sup>23</sup>

A telephonic hearing was held on July 11, 2024. Ms. G. was called twice at the time schedule for hearing, but both times an automatic message stated her phone was not receiving calls. When a benefits recipient does not appear for this type of hearing, the hearing proceeds with the agency presenting its evidence.<sup>24</sup> The hearing thus started with DPA presenting oral and documentary evidence. At approximately 12 minutes after the scheduled hearing time, Ms.

<sup>13</sup> Ex. 11 at 10, 14-15, 21-22, 27, 32, 38, 43.

<sup>14</sup> Ex. 11 at 14, 21.

<sup>15</sup> *Id.* at 86, 88.

<sup>16</sup> Ex. 12. DPA took into account potential expenses for self-employment income by deducting 50 percent. *Id.* at 1.

<sup>17</sup> Ex. 3-4.

<sup>18</sup> Ex. 3.

<sup>19</sup> Ex. 4. The date Ms. G. wrote on the delivery receipt appears to be “5/10/24,” but based on the fact that it was mailed June 5 and Ms. G. sent an email regarding the hearing on June 11, it is apparent that the number Ms. G. wrote on the receipt to indicate the month is or was intended to be a “6” for June.

<sup>20</sup> June 11, 2024 email.

<sup>21</sup> June 19, 2024 email.

<sup>22</sup> Ex. 5.

<sup>23</sup> Ex. 6; Holton testimony; G.s statement at hearing.

<sup>24</sup> 7 C.F.R. §273.16(e)(4).

G. called OAH and was transferred into the hearing. Ms. G. asked to postpone the hearing, arguing that DPA had not provided evidence sufficiently in advance of the hearing, based on the date Ms. G. *retrieved* the notice from her post office box, not the date DPA mailed it. Her request was denied. Requests to postpone a disqualification hearing must be made at least ten days prior to a scheduled hearing.<sup>25</sup> And notice requirements are satisfied by mailing the notice by first class or certified return receipt mail, which is how DPA sent Ms. G. the notice here.<sup>26</sup>

Ms. G. was advised of her right not to testify in the hearing. DPA re-presented the evidence it had presented prior to Ms. G. joining the hearing. DPA called a witness, E. K., to testify. When it was Ms. G.'s turn to cross examine Mr. K., it was discovered that Ms. G. was no longer on the phone and had possibly hung up. The hearing went off the record and the ALJ attempted to call Ms. G. back four times. Ms. G. did not answer the phone. Nor has Ms. G. contact OAH again, either during the hearing or in the days since, to report any sort of technical difficulties. Based on those circumstances, it appears Ms. G. indeed chose not to continue participating in the hearing.

DPA completed presenting its evidence without Ms. G. participating.

### **III. Discussion**

DPA claims Ms. G. intentionally misstated or omitted income by underreporting her income for November 2022 and failing to notify DPA of changes to her income December 2022 through April 2023. A person who intentionally makes false or misleading statements or omits facts on a SNAP application is responsible for paying back any overpayment as restitution and can be disqualified from receiving benefits for one year for a first offense.<sup>27</sup> An ATAP applicant is similarly responsible for restitution and can be disqualified for six months for a first-time offense for intentionally misrepresenting, concealing, or withholding a material facts to establish eligibility.<sup>28</sup> The Division has the burden of demonstrating these intentional violations by clear and convincing evidence.<sup>29</sup>

On her application, Ms. G. reported only \$30 in self-employment income for November 2022 and no anticipated income for December 2022. She was then interviewed at the end of

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<sup>25</sup> 7 C.F.R. §273.16(e)(2)(iv)

<sup>26</sup> 7 C.F.R. §273.16(e)(3); Ex. 5-6.

<sup>27</sup> 7 U.S.C. § 2015(b)(1); 7 C.F.R. § 273.16(b)(1), (b)(12), (c)(1).

<sup>28</sup> AS 47.27.015(e); 7 AAC 45.570(a); 7 AAC 45.580(c), (d), (n).

<sup>29</sup> 7 C.F.R. § 273.16(e) (6); 7 AAC 45.585(d).

December to determine her eligibility and reported no additional income at that time. Her bank records, however, show that at the time of her December 30, 2022 interview, she had received \$1,967.24 in November and \$1,754.35 in December — both well in advance of the \$30 of income she reported to DPA. Also during that interview, DPA reviewed the Rights and Responsibilities document with Ms. G., which advised Ms. G. to notify DPA when her income changes by more than \$50 — *i.e.*, that she had more than \$80 in monthly income — or her household has more than \$2,250 in cash, either in hand or in the bank. At the time of the interview, Ms. G. had received far more than her stated income for November and December 2022. Indeed, her income far exceeded the \$50 change requiring notification. And her income continued to far exceed this threshold through April 2023. Ms. G. did not report this income or these changes in her income to DPA. Also, on January 6, 2023, Ms. G. received a cashier's check for \$5,500, which is more than twice the cash amount a person may have on hand without notifying DPA. This evidence demonstrates that Ms. G. had income greater than the \$30 per month she reported to DPA. This evidence also demonstrates that Ms. G. received or held amounts during these months that triggered reporting requirements. She was informed of the need to report such changes and of the potential consequences for not doing so, and yet she did not report this income to DPA. Accordingly, Ms. G. misstated or omitted her income during this time.

Ms. G.'s misrepresentations and omissions of income were material to her benefits eligibility. SNAP and ATAP eligibility and the amount of benefits depend, in part, on household income.<sup>30</sup> By vastly understating her monthly income, Ms. G. received more benefits than she would have if she had accurately disclosed her income. The Division calculated that Ms. G. received \$2,487 in benefits to which she was not entitled based on her actual income.<sup>31</sup> Indeed, for January 2023, Ms. G.'s income made her ineligible for any SNAP or ATAP benefits.<sup>32</sup>

The evidence further demonstrates that Ms. G.'s misstatements and omissions were intentional. Although Ms. G. appeared for only part of the hearing and provided no evidence regarding her income during that time, intent can be determined from circumstantial evidence.<sup>33</sup>

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<sup>30</sup> 7 C.F.R. § 273.10; 7 AAC 45.275.

<sup>31</sup> Ex. 12.

<sup>32</sup> *Id.*

<sup>33</sup> *In re TO*, OAH 20-0953-ADQ (2021) (when benefit recipient opts not to testify at disqualification hearing, “[n]onetheless her intent can be deduced from circumstantial evidence.”).

Here, Ms. G. filled out an application that asked for November and December 2022 income. She underreported the November income and reported no anticipated income for December. When she was then interviewed at the end of December, she made no corrections to her income information and did not disclose the fact that she had received far more than \$30 for both these months. Ms. G. was further advised that she was required to report income changes of more than \$50. She exceeded that amount for every month at issue, yet reported none of these income changes to DPA. Ms. G. was also advised that she was required to report any time she held more than \$2,250 in cash. She received a \$5,500 check in January 2023, but did not report it. In light of the fact that Ms. G. was asked to report income and told to report later changes, yet misstated or omitted income on her application and at her eligibility interview and failed to report changes in later months, the circumstances demonstrate that Ms. G. intentionally misstated or omitted her income.

The evidence indicates Ms. G. was in the process of restarting her life following a domestic violence situation. No doubt that was extremely challenging. But it does not excuse intentionally understating or omitting income to receive benefits based on a lower income than Ms. G.'s own bank records show she had.

DPA has met its burden to demonstrate intentional program violations.

#### **IV. Conclusion**

Ms. G. committed a first time Intentional Program Violation of the SNAP and ATAP programs.

For SNAP, Ms. G. is disqualified from receiving benefits for 12 months starting October 1, 2024.<sup>34</sup>

For ATAP, Ms. G. is disqualified from benefits for six months.<sup>35</sup> If Ms. G. is currently receiving ATAP benefits, the disqualification period will begin as provided in 7 AAC 45.580(f)(1). If Ms. G. is not currently receiving ATAP, her disqualification period is postponed until she applies and is found eligible for ATAP benefits.<sup>36</sup>

These disqualifications apply only to Ms. G. and not to other individuals in her household. For the duration of the disqualification periods, Ms. G. will need to report her

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<sup>34</sup> 7 C.F.R. § 273.16(b)(13), (e)(8)(i).

<sup>35</sup> 7 C.F.R. § 273.16(b)(13), (e)(8)(i).

<sup>36</sup> 7 AAC 45.580(g).

income and resources, but her own needs will not be considered when determining SNAP or ATAP eligibility or benefit amounts.<sup>37</sup>

The Division will provide written notice to Ms. G. and any other household members of the benefits they will receive during the period of disqualification or if they need to reapply.<sup>38</sup>

If there were over-issued benefits that have not been repaid, Ms. G. or any remaining household members are now required to make restitution.<sup>39</sup> If Ms. G. disagrees with the Division's calculation of \$2,487 in overpaid benefits, she may request a separate hearing on that limited issue.<sup>40</sup>

Dated: July 22, 2024

By: Signed  
Signature  
Rebecca Kruse  
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.]

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<sup>37</sup> 7 C.F.R. § 273.16(b)(11), (c)(1); 7 AAC 45.580(e)(1).

<sup>38</sup> 7 C.F.R. § 273.16(e)(9)(ii); 7 AAC 45.580(k).

<sup>39</sup> 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii); 7 AAC 45.570(b).

<sup>40</sup> 7 C.F.R. § 273.15; 7 AAC 45.570(l).

## 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 August, 2024.

By: Signed  
Signature  
Rebecca Kruse  
Name  
Administrative Law Judge  
Title