

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

In the Matter of	)	
	)	
T. D.	)	OAH No. 24-0625-ADQ
_____	)	

**DECISION AND ORDER**

**I. Introduction**

T. D. was a Supplemental Nutrition Assistance Program (SNAP)<sup>1</sup> recipient in 2022 and 2023. On September 25, 2024, the Department of Health, Division of Public Assistance Fraud Control Unit (“Division”) initiated this Administrative Disqualification case against her, alleging she had committed a first time Intentional Program Violation against the SNAP program.<sup>2</sup>

Ms. D.’s hearing was held on November 5, 2024. Ms. D. was provided advance notice of the hearing by both certified mail and standard First-Class mail.<sup>3</sup> Ms. D. represented herself and testified on her own behalf. Amanda Holton, an Investigator with the Division’s Fraud Control Unit, represented the Division. Ms. Holton, testified for the Division as did Daryl Johnson, an Eligibility Technician with the Division. The Division’s exhibits were admitted into evidence. The hearing was recorded.

This decision concludes that Ms. D. committed a first Intentional Program Violation of the SNAP.

**II. Facts**

The following facts were established by clear and convincing evidence.

Ms. D. is a long-term SNAP benefit recipient, who has been receiving SNAP benefits since at least 2015.<sup>4</sup> She applied to renew those benefits on November 30, 2022. The application form that she completed and signed contained a question that asked for the following information:

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<sup>1</sup> Congress amended the Food Stamp Act to change the official name of the Food Stamp program to the Supplemental Nutrition Assistance program (“SNAP”). While the program is still commonly referred to as “Food Stamps,” this decision will use current title of SNAP.

<sup>2</sup> Ex. 3.

<sup>3</sup> Ex. 1, para. 6; Ex. 3; Ex. 4.

<sup>4</sup> Ex. 13, pp. 2 – 6.

8. List any other money you or anyone in your household receives. *Include Social Security, SSI, BIA, VA, retirement, unemployment insurance, Worker's Compensation, Native assistance, child support, cash gifts, annuities, etc.*<sup>5</sup>

Ms. D. did not fill in a response to the question.<sup>6</sup> That same application contained an **“ACKNOWLEDGEMENT OF UNDERSTANDING AND STATEMENT OF TRUTH”** section, which was initialed by Ms. D. as having been read and understood, that read:

I understand that eligibility for Public Assistance is determined in part by how much income my household has at its disposal. To that end, I understand that this application requires that I disclose all income received by myself and members of my household, including but not limited to income from the following sources: Employment (including Self-Employment), Alimony, Child Support, Unemployment, Net Rental/Royalty, Pension/Retirement, Supplemental Security Income, Veteran's Benefits, and Social Security Benefits.<sup>7</sup>

Ms. D.'s November 30, 2022 application was approved.<sup>8</sup>

Ms. D. subsequently applied to renew her SNAP benefits on May 12, 2023. That application form, completed and signed by Ms. D., also contained the identical question as the November 2022 application regarding all household member's income. Ms. D. again did not fill in a response to that question.<sup>9</sup> As with the prior application, it also contained the **“ACKNOWLEDGEMENT OF UNDERSTANDING AND STATEMENT OF TRUTH”** section, initialed by Ms. D., where she acknowledged her obligation to disclose her household's members' income, including Social Security Benefits.<sup>10</sup>

Ms. D.'s household consisted of herself and her three children.<sup>11</sup> Two of those children receive Social Security Survivor benefits because their father is deceased. The Division reviewed Ms. D.'s May 12, 2023 application and denied it because it found out that Ms. D. was receiving Social Security benefits for two of her children, which income placed her household over the income limit for her household size.<sup>12</sup>

Ms. D.'s bank account records for June 2022 through the end of May 2023 explicitly show two deposits, one for each of the two children receiving Social Security benefits, were

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<sup>5</sup> Ex. 8, p. 3, question 8 (emphasis in original).

<sup>6</sup> Ex. 8, p. 3, question 8.

<sup>7</sup> Ex. 8, p. 5, section 17.

<sup>8</sup> Ex. 9.

<sup>9</sup> Ex. 10, p. 3, question 8.

<sup>10</sup> Ex. 10, p. 5, section 17.

<sup>11</sup> See Ex. 8, p. 1; Ex. 10, p. 1.

<sup>12</sup> Ex. 11.

made into her account each month. Ms. D.'s bank account statements, for the relevant time period, each state that these two deposits are "DEPOSIT ACH SSA TREAS 310 TYPE." The combined Social Security deposits for the two children were \$4,132 (\$2,066 apiece) monthly in June 2022 through December 2022 and increased to \$4,490 (\$2,245 apiece) monthly beginning in January 2023.<sup>13</sup>

Ms. D. testified. In her testimony, she acknowledged that she did not inform the Division in its applications that she was receiving Social Security Survivor's benefits for two of her children. She testified that she did not intentionally omit that information but instead did not provide it because she did not understand that the children's Survivor benefits were Social Security benefits.

The Division initiated a fraud investigation which culminated in this case.<sup>14</sup> The Division calculated that Ms. D. received a total of \$7,032 in SNAP benefits from December 2022 through May 2023, which she was financially not eligible to receive.<sup>15</sup>

### **III. Discussion**

In order to prevail, the Division must prove by clear and convincing evidence<sup>16</sup> that Ms. D. committed an Intentional Program Violation of the Food Stamp program: that she intentionally "made a false or misleading statement, or misrepresented, concealed, or withheld facts" by failing to notify the Division of the Social Security Survivor benefits received by her for two of her children.<sup>17</sup> It must be noted that Food Stamp eligibility and benefits are determined based, in part, on a household's income.<sup>18</sup>

The evidence is undisputed that Ms. D. received Social Security Survivor benefit payments for two of her children continuously from at least June 2022 through at least May 2023.<sup>19</sup> It is also undisputed that she did not list her receipt of the two children's Social Security payments on either the November 30, 2022 application or the May 12, 2023 application. This

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<sup>13</sup> Ms. Holton's testimony; Ex. 12, p. 5 (June 30, 2022), p. 11 (August 2, 2022), p. 18 (Sept. 1, 2022), p.25 (October 2, 2022), p.32 (November 2, 2022), p. 39 (December 1, 2022), p.46 (January 2, 2023), p. 54 (February 2, 2023), p. 63 (March 2, 2023), p. 70 (March 29, 2023), pp. 76 – 77 (April 30, 2023), p. 82 (May 30, 2023).

<sup>14</sup> Ex. 2.

<sup>15</sup> Mr. Johnson's testimony; Ex. 13, p. 1.

<sup>16</sup> 7 C.F.R. § 273.16(e)(6).

<sup>17</sup> 7 C.F.R. § 273.16(c).

<sup>18</sup> 7 C.F.R. § 273.10(e)(1)(i)(A).

<sup>19</sup> The record does not contain bank statements outside of this date range.

means that the critical issue here is one of whether Ms. D. intentionally “misrepresented, concealed, or withheld facts” regarding her household income on either of these applications.

Ms. D., while acknowledging that she did not list her children’s Social Security income on either of the relevant applications, testified that she did not do it intentionally because she was not aware that the Survivor benefits they were receiving were Social Security benefits. Her testimony is not credible for two reasons. First, Social Security Survivor benefits do not automatically show up after a parent’s death. The surviving parent or guardian has to apply for those benefits with the Social Security Administration. This means that Ms. D., as the surviving parent, would have had to apply for these benefits for her children. She would therefore have been aware that Social Security was the source of the benefits. Second, every one of her bank statements explicitly show that two deposits each month, one for each of the two relevant children, are from the “SSA.” Accordingly, despite her testimony to the contrary, the weight of the evidence shows, by clear and convincing evidence, that Ms. D. knew that the two payments she received every month for the two children were Social Security payments. The evidence undisputedly shows that she did not disclose this income on the November 30, 2022 and May 12, 2023 SNAP renewal applications, despite being asked on each application if her household received Social Security benefits each application, and despite acknowledging, on each application, that she was required to disclose receipt of Social Security Benefit income for household members.

The Division has the burden of proof in this case by clear and convincing evidence. The Division met its burden. It showed that Ms. D. received monthly Social Security payments for two of her children during the relevant times, and intentionally omitted it from her two SNAP renewal applications submitted on November 30, 2022 and May 12, 2023.

#### **IV. Conclusion**

Ms. D. has committed a first time Intentional Program Violation of the Food Stamp program. She is therefore disqualified from receiving Food Stamp benefits for a 12 month period, and is required to reimburse the Division for benefits that were overpaid as a result of the Intentional Program Violation.<sup>20</sup> The Food Stamp program disqualification period shall begin

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<sup>20</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).

January 1, 2025.<sup>21</sup> This disqualification applies only to Ms. D., and not to any other individuals who may be included in her household.<sup>22</sup> For the duration of the disqualification period, Ms. D.'s needs will not be considered when determining Food Stamp eligibility and benefit amounts for her household. However, she must report her income and resources as they may be used in these determinations.<sup>23</sup>

The Division shall provide written notice to Ms. D. 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>24</sup>

If over-issued Food Stamp benefits have not been repaid, Ms. D. or any remaining household members are now required to make restitution.<sup>25</sup> If Ms. D. disagrees with the Division's calculation of the amount of overissuance to be repaid, she may request a separate hearing on that limited issue.<sup>26</sup>

Dated: November 12, 2024

By: Signed  
Signature  
Larry Pederson  
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>21</sup> See 7 C.F.R. § 273.16(b)(13) and (e)(8)(i); *Garcia v. Concannon*, 67 F.3d 256, 259 (9<sup>th</sup> Cir. 1995). Insofar as 7 C.F.R. § 273.16(e)(9)(ii) is inconsistent with this result, it must be disregarded as contrary to statute, as discussed in *Garcia* and in *Devi v. Senior and Disabled Serv. Div.*, 905 P.2d 846 (Or. App. 1995).

<sup>22</sup> 7 C.F.R. § 273.16(b)(11).

<sup>23</sup> 7 C.F.R. § 273.11(c)(1).

<sup>24</sup> 7 C.F.R. § 273.16(e)(9)(ii).

<sup>25</sup> 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

<sup>26</sup> 7 C.F.R. § 273.15.

## 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 2nd day of December, 2024.

By: Signed  
Signature  
Larry Pederson  
Name  
Administrative Law Judge  
Title