

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

In the Matter of	)	
	)	
K. T.	)	OAH No. 24-0685-ADQ
_____	)	

**DECISION**

**I. Introduction**

K. T. was a recipient of benefits from Supplemental Nutritional Assistance Program (SNAP). The Division of Public Assistance (Division/DPA) initiated this Administrative Disqualification case, alleging she had committed a first time Intentional Program Violation (IPV) of SNAP.

Ms. T.'s hearing was held on December 9, 2024, with Ms. T. having been provided at least 30 days advanced notice of the hearing by certified mail at her last known address and a return receipt with her signature for receipt of the notice submitted into evidence.<sup>1</sup> Ms. T. attended the hearing and represented herself.

The Division was represented by Amanda Holton, an investigator employed by the Division's Fraud Control Unit. Ms. Holton also testified on behalf of the Division. Additionally, the Division presented Darryl Johnson as a witness. Mr. Johnson is employed as an Eligibility Technician III, with the Division's Fraud Control Unit. Division exhibits 1-13 were admitted into evidence.

Based upon the testimony and exhibits offered at the hearing, this decision concludes DPA proved by clear and convincing evidence that Ms. T. committed a first intentional violation of the SNAP benefits program.

**II. Facts<sup>2</sup>**

Ms. T. filed an Eligibility Review Form (Gen 72) on December 12, 2023.<sup>3</sup> Question 7 of the Gen 72 form asks if anyone in the household is employed, and if so, to identify the employer, the number of hours worked per week, the hourly wage, and how often the individual is paid. The response to this section was left blank. Question 7 also asks if anyone's job, wages, or hours of work will change soon. This section was also left blank. Ms. T. signed and dated the Gen 72

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<sup>1</sup> Div. Ex. 1, p.3; Div. Ex. 3, p. 1; Div. Ex. 4, p. 1.

<sup>2</sup> The following facts were established by clear and convincing evidence unless otherwise noted.

<sup>3</sup> Div. Ex. 8, p.5.

on November 26, 2023, certifying under the penalty of perjury that the information contained within it was true and correct.

At the time of completing her Gen 72, Ms. T. was also provided with rights and responsibilities information (Gen 51). This information explained her income reporting requirements, and the potential disqualification and fraud penalties that might be imposed should misreporting occur.<sup>4</sup> These rights and responsibility documents are attached to all applications and reviews.

Based upon a reported income of \$0 per month, Ms. T.'s SNAP recertification was approved with a monthly benefit amount of \$634.<sup>5</sup> On December 21, 2023, the Division mailed a notice to Ms. T. letting her know her benefits were approved, and that a zero-income amount was used to determine her eligibility. The approval notice also advised Ms. T. that she is required to tell the Division, within 10 days, if her monthly income ever exceeds \$3,366.<sup>6</sup>

Ms. T. testified that she did not have access to her paycheck stubs at the time she filled out the Gen 72 and that she attempted to contact DPA approximately three times shortly after she submitted the application in order to submit her paycheck stubs, but she never got through.<sup>7</sup> Ms. T. did not provide her employment or wage information to DPA at any time between December 12, 2023 and May 9, 2024.

On May 10, 2024, the Division received a SNAP Interim Report Form from Ms. T..<sup>8</sup> Question 6 on that form asks, for anyone in the home who is working, two questions about employment. It asks, since the last report, has anyone changed employers or, since the last report, has there been any changes in wages, salary, or full or part time status. Ms. T. checked the "no" box for both parts of the question. Question 7 asks if anyone has started a job since the last report. Ms. T. checked the "no" box to this question. Ms. T. signed the form, declaring under the penalty of perjury that the information was true and correct. Ms. T. dated April 20, 2024, but the form was not received by the Division until May 10, 2024. Based on the information Ms. T. provided, her benefits were again approved.<sup>9</sup> On or about June 19, 2024, the Division obtained

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<sup>4</sup> Div. Ex. 7 *See also* testimony of Darryl Johnson.

<sup>5</sup> Div. Ex. 9 *See also* testimony of Darryl Johnson.

<sup>6</sup> Div. Ex. 9, p. 2.

<sup>7</sup> Testimony of K. T.

<sup>8</sup> Div. Ex. 10 *See also* testimony of Darryl Johnson.

<sup>9</sup> Div. Ex. 11, p. 1 *See also* testimony of Darryl Johnson.

information that Ms. T. had been employed since November 8, 2023, and a fraud referral for overpayments and an intentional program violation was initiated.

Employment verification obtained by the Division shows that Ms. T. was hired by Restaurant A. on November 8, 2023.<sup>10</sup> She began working on November 16, 2023, and she received her first paycheck on December 1, 2023.<sup>11</sup> Ms. T. continued her employment with Restaurant A. through June 2024, receiving a paycheck on June 28, 2024. Ms. T.'s household income during the alleged violation period from November 2023 through June 2024 never exceeded the gross monthly income limit of \$3,366.

### **III. Discussion**

It is prohibited by federal law for a person to obtain SNAP benefits by concealing or withholding facts.<sup>12</sup> The Division alleges that Ms. T. violated that prohibition and committed a first Intentional Program Violation (IPV) of SNAP. It asserts that Ms. T. did so by failing to report her employment and income, or anticipated income on her December 12, 2023 Gen 72. The Division further asserts that there was an ongoing course of conduct when she failed to report her income on her May 10, 2024 interim report.

To establish an IPV of SNAP, the Division must prove by clear and convincing evidence<sup>13</sup> that Ms. T. intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts.<sup>14</sup> To satisfy this standard, the Division must show that it is *highly probable* that Ms. T. intended to misrepresent, conceal, or withhold facts.<sup>15</sup> SNAP eligibility and benefits are determined based upon a household's composition, assets, and income.<sup>16</sup>

Here, the evidence is clear that Ms. T. obtained employment on November 8, 2023, and had even begun working on November 16, 2023, prior to the date she signed her Gen 72 on November 26, 2023. Even though she had not received a paycheck before signing the form, because her first paycheck didn't issue until December 1, 2023, at the time she signed her Gen 72, she knew the name of her employer, her hourly wage, and that she anticipated receiving income.

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<sup>10</sup> Business A, LLC is the corporation doing business as Restaurant A.

<sup>11</sup> Div. E. 12, pp. 2-3; Ex. 11, pp.1 and 9 *See also* testimony of Darryl Johnson and Amanda Holton.

<sup>12</sup> *See, e.g.* 7 U.S.C. § 2015(b).

<sup>13</sup> 7 C.F.R. § 273.16(e)(6).

<sup>14</sup> 7 C.F.R. § 273.16(c).

<sup>15</sup> *DeNuptiis v. Unocal Corporation*, 63 P.3d 272, 275 n. 3 (Alaska 2003, emphasis added)(defining clear and convincing standard).

<sup>16</sup> 7 C.F.R. § 273.10(e)(1)(i)(A).

T. testified that her intent in leaving the question blank was because she believed she needed her paystubs answer the question and because she did not have access to them yet, she was waiting to have them to turn them in. She stated she tried contacting DPA several times to ask how to submit them, but she never got through. She testified she has difficulty with understanding and filling out forms, that she did not finish high school, and that her father usually helps her fill out the SNAP forms, but that he was not available. She denied having a learning or reading disability. When asked if her partner, the other adult in the household who signed the Gen 72 was able to help her with the forms, she testified that he does have a learning disability and his mother helps him complete forms. Was waiting on the paystubs and tried to get them. Said she was confused about how to fill out the form – has a hard time understanding things sometimes. Gets a headache when reading and then can't focus and gets overwhelmed.

Her initial decision to leave blank was not an intentional misrep... but when she failed to follow up, correct, or report it and therefore did not follow through with her initial intent to provide – it became intentional.

Testified that she called next morning after she filed the Gen 72. Wanted to know where to send them the paystub info and to let them know she was going to send them in, but because she was so far back in the queue she hung up. When asked why she didn't email the stubs the same way she emailed her application, she stated she was in the hospital and her phone was stolen and she had no access to her email. When asked when she was in the hospital, the earliest date she could point to was March 2024 at ANMC and June 2024 at Providence. Neither of the dates explains her inability to provide the information by email prior to March 2024.

Reviewing the Gen 72 form, the wording preceding question 7 refers to “money received information”. An argument could be made that as of the date of her signature, Ms. T. had not actually received any income and therefore leaving question 7 blank - requesting the name of the employer, hours worked, hourly wage and the frequency of pay - was not an intentional misrepresentation or concealment of facts, but an oversight based upon not having received a paycheck as of the date she signed the Gen 72. However, that argument fails for two reasons.

First, Ms. Holton testified that because Ms. T. began working prior to signing the Gen 72, she had an obligation to report the information she possessed, such as her employer's name and her hourly wage and that the Division would then contact the employer to verify the information in order to determine her eligibility and amount of benefits based upon her anticipated income.<sup>17</sup>

Second, and even more compelling, is the other part of question 7. The second part of question 7 specifically asks if anyone's job, wages, or hours of work will be changing soon. Ms. T. also left this section blank even though she knew she had started a new job just weeks before signing her Gen 72. She also knew that she would be going from having zero income to earning \$18 per hour.

Ms. T. did not appear at her hearing, nonetheless her intent can be deduced from the circumstantial evidence. The evidence demonstrated that the requirement to disclose all employment and income was straightforward and provided in writing. Ms. T. had been a SNAP recipient since 2018 and had been required to submit eligibility review forms in the past.<sup>18</sup> Additionally, the written approval of benefits notice sent to her on December 21, 2023, after she had already received two paychecks, reiterated that her benefit amount was determined based upon a zero-income disclosure to the Division. So, Ms. T. would have been aware that her increased income would impact her benefit amount, yet she did not disclose her employment status and income after receiving that notice. The reasonable conclusion that can be drawn from Ms. T.'s conduct is that she consciously and intentionally withheld her employment information to increase the likelihood that she would receive SNAP benefits at a higher benefit amount.

Additionally, Ms. T. did not report her employment or income on her May 10, 2024 interim report. Question 6 of the status report asks, for persons in the home who are working, has anyone changed employers since last reported. The wording of that question might have been slightly confusing, as Ms. T. had not changed employers. Additionally, question 7 asks if anyone who is still working with the same employer, has had a change in wages or hours. Again, because Ms. T. remained employed with the same wages and hours (even though she failed to previously disclose that employment) her answer to the question was not necessarily untruthful. Yet, it can be considered another missed opportunity for Ms. T. to disclose her employment and income. However, it is not necessary to determine if her answers on the status report constitute

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<sup>17</sup> Testimony of Amanda Holton.

<sup>18</sup> Testimony of Darryl Johnson and Amanda Holton.

an IPV, as the Division has already established Ms. T. committed an IPV on her November 26, 2023 Gen 72 form.

As the Division met its burden of proof and established that Ms. T. intentionally concealed or misrepresented her income and employment status on the Gen 72 she signed on November 26, 2023, they have established Ms. T. committed a first IPV of the SNAP benefits.

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

Ms. T. has committed a first Intentional Program Violation of SNAP. She is therefore disqualified from receiving SNAP benefits for a period of 12 months, and she is required to reimburse the Division for benefits that were obtained as a result of the IPV.<sup>19</sup>

The disqualification period shall begin one month after the issuance of the notice of disqualification by the Final Decisionmaker.<sup>20</sup> This disqualification applies only to Ms. T. and not to any other individuals who may be included in her household currently and in the future.<sup>21</sup> For the duration of the disqualification period, Ms. T.'s needs will not be considered when determining SNAP eligibility and benefit amounts for the household. However, she must report her income and resources as they may be used in these determinations.<sup>22</sup>

The Division shall provide written notice to Ms. T. 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>23</sup>

If over-issued SNAP benefits have not been repaid, Ms. T. is now required to make restitution.<sup>24</sup> If Ms. T. disagrees with the Division's calculation of the amount of over-issued benefits to be repaid, she may request a hearing on that limited issue.<sup>25</sup>

Dated: December 12, 2024

By: Signed  
Signature  
Beth Goldstein  
Name  
Administrative Law Judge  
Title

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<sup>19</sup> 7 C.F.R. § 273.16(b)(1)(i); 7 C.F.R. § 273.16(e)(8)(iii).

<sup>20</sup> 7 U.S.C. § 2015(b)(1)(i); 7 C.F.R. § 273.16(b)(13).

<sup>21</sup> 7 C.F.R. § 273.16(b)(11).

<sup>22</sup> 7 C.F.R. § 273.11(c)(1)(i).

<sup>23</sup> 7 C.F.R. § 273.16(e)(9)(ii).

<sup>24</sup> 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

<sup>25</sup> 7 C.F.R. § 273.15.

[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 30<sup>th</sup> day of December, 2024.

By: Signed  
Signature  
Beth Goldstein  
Name  
Administrative Law Judge  
Title