

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

In the Matter of)	
)	
T. Q.)	OAH No. 24-0686-ADQ
_____)	

DECISION

I. Introduction

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

Ms. Q.'s hearing was held, after a continuance at her request, on December 3, 2024. Ms. Q. received and acknowledged proper notice of at least 30 days prior to the hearing and acknowledged receipt of the submitted evidence. Evidence submitted by the Division confirms Ms. Q.'s notice and receipt.¹ Ms. Q. initially attended the hearing. She voluntarily excused herself from the hearing approximately two thirds into the Division's case and the hearing continued in Ms. Q.'s absence. Prior to her leaving the hearing, Ms. Q. was told and acknowledged that the hearing would continue in her absence.²

The Division was represented by Anna Avila, an investigator employed by the Division's Fraud Control Unit. Ms. Avila also testified on behalf of the Division. Darryl Johnson, an Eligibility Technician III with the Division's Fraud Control Unit, also testified. Division exhibits 1-17 were admitted into evidence.

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

II. Facts³

¹ Div. Ex. 1, p. 3; Div. Ex. 4; Div. Ex. 5; Div. Ex. 6 and Green Card submitted 12/3/24.

² Once proper notice has been given, the Food Stamps regulations allow a hearing to be held without the participation of the household member alleged to have committed the IPV. *See* 7 C.F.R. § 273.16(e)(4).

³ The following facts were established by clear and convincing evidence unless otherwise noted.

Ms. Q. filed an Application for Services (Gen 50) applying for SNAP benefits, dated January 1, 2023, which was received by the Division on January 9, 2023.⁴ In addition to the two children in the household, she listed N. T. as an additional full time adult member of the household. Step 3 of the application form requires the applicant to list all jobs and income held and earned by the members of the household. This section of the application submitted by Ms. Q. was left blank, with no income or employment listed for anyone in the household.⁵ Both Ms. Q. and Mr. T. signed the application under the penalty of perjury on January 1, 2023. Additionally, Step 9 on the application form sets forth an acknowledgement of understanding and truth. Ms. Q. initialed all three sections including the section acknowledging her understanding that the application requires that she disclose all income received by herself and the members of her household.⁶

Based on the representation that the household received no income, the application for SNAP benefits was approved for \$869 per month for January 2023, and \$1,172 per month for February through June 2023. The Division's January 17, 2023, approval notice also advised Ms. Q. that she is required to tell the Division, within 10 days, if the household monthly income ever exceeds \$3,759.00.⁷

On June 2, 2023, Ms. Q. completed, signed and submitted an Eligibility Review Form to renew her SNAP benefits (Gen 72).⁸ On question 7 of the review form, Ms. Q. declared her employment and income with Transportation Service at 12 hours per week at \$25 per hour. No other income or employment was listed.⁹ Mr. T. continued to be listed as a full-time member of the household, however, only Ms. Q. signed this review form.¹⁰ Benefits were issued based upon the declared income and approved through June 2024 in the amount of \$2,328 beginning in July 2023.¹¹ The review form had the same acknowledgment of understanding and statement of truth and Ms. Q. again initialed her understanding that she was required to disclose all household income.¹²

⁴ Div. Ex. 10.

⁵ Div. Ex. 10, pp. 6 -7.

⁶ Div. Ex. 10, p. 12.

⁷ Div. Ex. 10, pp. 14-15.

⁸ Div. Ex. 11.

⁹ Div. Ex. 11, p. 5.

¹⁰ Div. Ex. 11, p. 7.

¹¹ Div. Ex. 11, pp. 9 – 10.

¹² Div. Ex. 11, p. 7.

On June 5, 2024, Ms. Q. completed, signed and filed the required review form for continued SNAP benefits.¹³ Question 19 requires reporting of employment and income. Ms. Q. listed her income with a School Bus Transportation Service¹⁴ at 18 hours per week at \$25 per hour. No additional income or employment was listed.¹⁵ Mr. T. continued to be listed as a full-time member of the household.¹⁶ This new form listed the acknowledgement of understanding and statement of truth above the signature line, but it did not require Ms. Q. to separately initial her understanding that she disclose all income for the household as the previous forms did.¹⁷ The Division issued a pend notice requesting proof of Ms. Q.'s wages.¹⁸ The application was closed because the Division did not receive the requested documentation from Ms. Q.¹⁹

On August 4, 2024, Ms. Q. reapplied for SNAP benefits through an Electronic Online Application.²⁰ Mr. T. continued to be listed as a full-time member of the household.²¹ Under the household income section, Ms. Q. listed her income with Transportation Service at \$25 per hour with no average hours per week disclosed. No other household income or employment was listed.²² Ms. Q. signed the electronic application under penalty of perjury.²³

An interview was held on August 15, 2024, with Ms. Q. regarding the August 4, 2024, application. During the interview Ms. Q. was asked about Mr. T.'s income with the Roofing Company in 2024, and she replied that he was employed there last year – meaning 2023. Ms. Q. was told that the Division had received information of 2024 wages for Mr. T. Ms. Q. stated that he was working in 2023 but staying home with the children in 2024.²⁴ Based upon the wage information the Division obtained for both Mr. T. and Ms. Q., the Division denied the SNAP application based upon the household being deemed over the maximum income for eligibility.²⁵

¹³ Div. Ex. 12.

¹⁴ Transportation Service and School Bus Transportation Service are the same company, Div. Ex. 1, p. 4.

¹⁵ Div. Ex. 12, p. 3.

¹⁶ Div. Ex. 12, p. 1.

¹⁷ Div. Ex. 12, p. 5.

¹⁸ Div. Ex. 12, p. 9.

¹⁹ Div. Ex. 12, p.10.

²⁰ Div. Ex. 13.

²¹ Div. Ex. 13, p. 4.

²² Div. Ex. 13, p.12.

²³ Div. Ex. 13, pp. 19 – 20.

²⁴ Div. Ex. 13, p. 21 - 22 and Div. Ex. 14 (recording).

²⁵ Div. Ex. 13, p. 23.

The Division obtained employment verifications for Ms. Q. and Mr. T.²⁶ Mr. T.'s verification shows employment and income from the Roofing Company for him immediately before the January 9, 2023, application through June 23, 2023.²⁷ Ms. Q.'s verification shows employment and income for her from the School Bus Transportation Service before and at the time of the January 1, 2023, application, as well as through October 2023. Ms. Q.'s verification, specifically the payment detail listing provided by the School Bus Transportation Service, also shows wages at an amount higher than she reported on her renewal application, mainly due to her working more hours than she reported to the Division.²⁸ Ms. Q. disclosed her typical hours worked per week as 12 hours at \$25 per hour. Wage records show she was actually working between 20 and 40 hours per week at that wage.²⁹ The Division calculated that Ms. Q. and Mr. T.'s alleged intentional misrepresentations resulted in the household receiving a total of \$11,021 in SNAP benefits to which it was not entitled.³⁰

III. Discussion

It is prohibited by federal law for a person to obtain SNAP benefits by concealing or withholding facts.³¹ The Division alleges that Ms. Q. violated that prohibition and committed a first Intentional Program Violation (IPV) of SNAP. It asserts that Ms. Q. did so by failing to accurately report her income on her January 1, 2023, and June 2, 2023, SNAP applications, and by failing to report Mr. T.'s employment and income on her January 1, 2023, June 2, 2023, June 5, 2024, and August 4, 2024, SNAP applications.³²

To establish an IPV of SNAP, the Division must prove by clear and convincing evidence³³ that Ms. Q. intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts.³⁴ To satisfy this standard, the Division must show that it is *highly probable* that Ms. Q. intended to misrepresent, conceal, or withhold facts.³⁵

²⁶ Div. Ex. 15 and Div. Ex. 16.

²⁷ Div. Ex. 16.

²⁸ Div. Ex. 15, pp. 7-22.

²⁹ *Id.*

³⁰ Ex. 17.

³¹ *See, e.g.* 7 U.S.C. § 2015(b).

³² *See* Div. Ex. 3, p. 1.

³³ 7 C.F.R. § 273.16(e)(6).

³⁴ 7 C.F.R. § 273.16(c).

³⁵ *DeNuptiis v. Unocal Corporation*, 63 P.3d 272, 275 n. 3 (Alaska 2003, emphasis added)(defining clear and convincing standard).

SNAP eligibility and benefits are determined based upon a household's composition, assets, and income.³⁶ The failure to fully report all household income can result in a wrongful eligibility determination or a larger monthly benefit amount.³⁷

Here the evidence is clear that Ms. Q. and Mr. T. were both employed and earning income when they completed, signed, and filed the January 1, 2023, application. Evidence shows that Mr. T. had been employed by the Roofing Company since May 2, 2022, and had received a paycheck on January 6, 2023, for 32 hours of work completed prior to the issuance of the check.³⁸ Ms. Q. had been employed by the School Bus Transportation Service since October 12, 2022, and had received paychecks weekly starting on November 23, 2022, and past the January 1, 2023, application date.³⁹ They both signed the Gen 50 application form under the penalty of perjury leaving the entire section that required the reporting of their employment and income blank.

Ms. Q. voluntarily withdrew from the hearing prior to presenting her case and without testifying. Therefore, there is no direct evidence of her intent. Intent can, however, also be deduced from circumstantial evidence.⁴⁰ The evidence demonstrated that the requirement to disclose all employment and income was straightforward and provided in writing. Ms. Q. had been a SNAP recipient since 2009 and she has submitted Gen 50 applications and Gen 72 renewal forms on multiple occasions.⁴¹ Additionally, the written approval of benefits notice sent on January 17, 2023, specifically stated that the benefits were determined using Ms. Q.'s disclosure to the Division of a gross monthly household income of \$0.

Ms. Q. would have been aware due to her long history as a SNAP recipient, that disclosing her and Mr. T.'s income could have impacted her benefit eligibility and amount, yet she left the employment and income section of the January 1, 2023, application completely blank. The reasonable conclusion that can be drawn from Ms. Q.'s conduct is that she consciously and intentionally withheld her employment/income information and Mr. T.'s

³⁶ 7 C.F.R. § 273.10(e).

³⁷ Testimony of Darryl Johnson.

³⁸ Div. Ex. 16.

³⁹ Div. Ex. 15.

⁴⁰ In the criminal case of *Sivertsen v. State*, 981 P.2d 564 (Alaska 1999), the Alaska Supreme Court stated that "in the case of a specific-intent crime, the jury is permitted to infer intent from circumstantial evidence such as conduct"

⁴¹ Testimony of Darryl Johnson.

employment/income information to increase the likelihood that she would be eligible to receive SNAP benefits and/or SNAP benefits at a higher benefit amount.

Additionally, while Ms. Q. did report her employment and income on her June 2023 eligibility review form, she significantly underrepresented her income by underrepresenting the number of hours per week she had been working. She also failed to disclose Mr. T.'s employment and income on the June 2023 eligibility review form. Her recorded August 15, 2024, interview provides evidence of her knowledge that Mr. T. was working during this 2023 time period.

On her June 5, 2024, eligibility review form, Ms. Q. reported no income for Mr. T. With respect to Mr. T.'s income relevant to the July 2023 through June 2024 period, the Division did not provide sufficient evidence to substantiate that Mr. T. was employed and earning wages after June 2023 and that Ms. Q. therefore failed to report it.

The employment verification form obtained by the Roofing Company only asked for wages through July 31, 2023.⁴² That employment verification also stated that Mr. T.'s employment with the Roofing Company terminated on June 23, 2023, and it showed his last wages were paid on June 30, 2023.⁴³ This combined with Ms. Q.'s answer during her recorded August 15, 2024, interview that Mr. T. worked in 2023, not 2024, fails to provide clear and convincing evidence that Ms. Q. failed to report Mr. T.'s employment and income on the June 5, 2024, eligibility review.⁴⁴ Similarly, without evidence of Mr. T.'s employment of wages after June 2023, there is insufficient evidence to show that Ms. Q. failed to report his income on the August 4, 2024, application.

Finally, Ms. Q. was notified in the January 17, 2023, notice of SNAP application approval, that she was required to notify the Division when all person in the household receiving SNAP benefits totals more than \$3759. Evidence presented by the Division shows that the household exceeded this threshold during the entire period of January 2023 through June 2023.⁴⁵ There is no evidence that Ms. Q. notified the Division that the household had exceeded this threshold between January 2023 and June 2023.

⁴² Div. Ex. 16, pp. 1-2.

⁴³ Div. Ex. 16, p. 2 and pp. 5-6.

⁴⁴ There is a notation on the Notice History dated August 16, 2024, regarding Mr. T.'s gross monthly income from the Roofing Company in August 2024, however, the documented evidence submitted regarding Mr. T.'s income with the Roofing Company does not extend past June 30, 2023.

⁴⁵ Div. Ex. 17.

As the Division met its burden of proof and established that Ms. Q. intentionally concealed or misrepresented her income and employment status and Mr. T.'s income and employment status on the SNAP benefits application they both signed on January 1, 2023, they have established that Ms. Q. committed a first IPV of the SNAP benefits program.

The Division equally met their burden of proof to establish the Ms. Q. intentionally concealed or misrepresented her income and Mr. T.'s income on the June 2, 2023, eligibility review application. The Division has not provided sufficient evidence to establish that Ms. Q. intentionally concealed or misrepresented Mr. T.'s employment and income on the June 5, 2024, review form or August 4, 2024, application. Finally, the Division did meet its burden of showing that the household exceeded the \$3759 threshold income level from January 2023 through June 2023 and Ms. Q. failed to notify the Division as required, thereby intentionally misrepresenting or concealing the household's income between January 2023 through June 2023.

IV. Conclusion

Ms. Q. 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.⁴⁶

The disqualification period shall begin one month after the issuance of the notice of disqualification by the Final Decisionmaker.⁴⁷ This disqualification applies only to Ms. Q. and not to any other individuals who may be included in her household currently and in the future.⁴⁸ For the duration of the disqualification period, Ms. Q.'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.⁴⁹

The Division shall provide written notice to Ms. Q. 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.⁵⁰

⁴⁶ 7 C.F.R. § 273.16(b)(1)(i); 7 C.F.R. § 273.16(e)(8)(iii).

⁴⁷ 7 U.S.C. § 2015(b)(1)(i); 7 C.F.R. § 273.16(b)(13).

⁴⁸ 7 C.F.R. § 273.16(b)(11).

⁴⁹ 7 C.F.R. § 273.11(c)(1)(i).

⁵⁰ 7 C.F.R. § 273.16(e)(9)(ii).

If over-issued SNAP benefits have not been repaid, Ms. Q. is now required to make restitution.⁵¹ If Ms. Q. 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.⁵²

Dated: December 12, 2024

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.]

⁵¹ 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

⁵² 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 30th day of December, 2024.

By: Signed
Signature
Beth Goldstein
Name
Administrative Law Judge
Title