

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

In the Matter of)	
)	
K. X.)	OAH No. 23-0608-CMB
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DECISION

I. Introduction

K. X. was a Supplemental Nutrition Assistance Program (SNAP) benefit recipient. The Division of Public Assistance (Division or DPA) notified Ms. X. that she had received an overpayment of SNAP benefits, also known as Food Stamps, in the amount \$278 in June of 2023 and that she was required to repay that amount.¹

Ms. X. disagreed with the Division's repayment requirement and requested a hearing. Her telephonic hearing was held on November 27, 2023. At the hearing, Jeff Miller represented the Division while Ms. X. represented herself.

There was no dispute that Ms. X. had been overpaid SNAP benefits in the amount of \$278 for the month of June 2023. Federal law relating to SNAP benefits allows no discretion with overpayments, so unless the debt is compromised, Ms. X. is obligated to repay the overpayment. However, Ms. X. can seek a compromise or payment plan by contacting the Division's claims department.

II. Facts

A. Case Proceedings

The Division initially filed this case to recoup two overpayments it made to Ms. X. in June of 2023: one was an overpayment of \$278 in connection with her SNAP benefits and the other was an overpayment of \$159 in Adult Public Assistance (APA) benefits. Prior to the hearing, the Division indicated that it was not pursuing its claim related to the overpayment of APA benefits and requested dismissal of this claim.² Accordingly, the APA claim is DISMISSED and the only claim to be resolved is the overpayment of SNAP benefits.

¹ SNAP was previously referred to as the Food Stamp program. Benefits from SNAP are still commonly referred to as "Food Stamps."

² See Division's Position Statement, p. 2.

B. The SNAP Overpayment

Ms. X. was a recipient of SNAP benefits for her household of two, which consisted of herself and her husband (B. L.).³ On May 3, 2023, a DPA representative sent an e-mail to an agency field office stating that B. L. no longer lived in the household. This e-mail further requested that the agency update the APA and Food Stamp benefits for June to reflect that Mr. L. was no longer part of Ms. X.'s household.⁴ DPA did not, however, remove Mr. L. from the household immediately. As a result, Ms. X. received \$306 in Food Stamp benefits in June, which resulted in an overpayment of \$278.

The Division notified Ms. X. on August 2, 2023 of the \$278 overpayment in Food Stamp benefits and advised her that repayment was required. The notice sent by the Division advised Ms. X. that since her husband was no longer in the home, he should have been "coded out from your case." The notice also informed Ms. X. that she could choose to repay the amount all at once or make payments. Since Ms. X. already was having her monthly benefits reduced to repay a previously established overpayment, the notice further advised her that a reduction in her SNAP benefits related to the \$278 overpayment would not occur until the prior claim was paid in full.⁵

Ms. X. filed a fair hearing request on September 7, 2023. In her request, she stated that she was not responsible for the overpayment, which had resulted from DPA's failure to change her living situation from a couple living together to an individual living separately.

At the hearing, Mr. Miller acknowledged that this overpayment was an agency error. However, he pointed out that 7 CFR § 273.18, a federal regulation, requires the Division to pursue an overpayment of Food Stamps.⁶ Ms. X. did not dispute that her husband has been living with his parents since his incarceration ended in March of 2023, nor did she dispute the amount of SNAP benefits she was entitled to receive as a household of one. Instead, she argued that she should not have to pay back the overpayment because the Division had failed to input this information into the computer when it was reported in May.⁷ Ms. X. also

³ See Division's Position Statement, p. 2; *see also* Exh. 1.4.

⁴ Exh. 2.

⁵ Exh. 6.

⁶ Presentation of Mr. Miller; Exh. 8.

⁷ Ms. X. also pointed out that this was the *second* time the agency had made an error regarding the amount of her Food Stamps and noted that she was still paying back a \$3000 overpayment. *See* Testimony of Ms. X.; *see also* Exh. 6.

testified that she was having difficulties making ends meet, that the Division's efforts to collect the overpayment was a financial hardship, and that she had filed for a hardship exemption but, as of the time of the hearing, she had not heard back from the Division.⁸

III. Discussion: Overpayments Are Subject to Recovery, Even if Caused by Agency Error

The Division acknowledges that the overpayment was due to agency error. However, the fact that the overpayment was a mistake by the agency does not release a recipient from having to repay the excess Food Stamp benefits she received.

Food Stamp benefits are governed by federal law. The federal statute pertaining to the recoupment of overpaid Food Stamp benefits is 7 U.S.C. § 2022. Subsection (b)(1) of that statute provides that the "state agency *shall* collect any overissuance of benefits issued to a household"[emphasis added]. This statute requires, on its face, that the Division attempt to recover overpaid Food Stamp benefits.

The federal implementing regulation pertaining to the recoupment of Food Stamp benefits is 7 C.F.R. § 273.18. Subsection (a)(2) of that regulation provides that "the State agency *must* establish *and* collect any claim"⁹ Under subsection (b)(3), collection action is required even where, as here, the "overpayment [is] caused by an action or failure to take action by the State agency."¹⁰ Thus, federal law requires the Division to attempt to recover overpaid Food Stamp benefits, *even if* the overpayment is the result of the Division's own error.

This was confirmed some years ago by the Alaska Supreme Court in the case of *Allen v. State of Alaska Department of Health & Social Services*. After holding that federal law requires the state to pursue repayment of all overpaid Food Stamp benefits, the Court observed:

We are sympathetic to the argument that it is unfair to require indigent food stamp recipients to repay benefits that were overissued to them through no fault of their own, but Congress has already made the policy decision that a ten dollar or ten percent cap on monthly allotment reduction, coupled with allowing state agencies some flexibility to compromise claims, is sufficient to mitigate this unfairness.

The federal regulations and the *Allen* decision are binding on this tribunal and on the Department of Health.

⁸ Testimony of Ms. X.

⁹ See Exh. 8 (emphasis added).

¹⁰ See Exh. 8.

IV. Conclusion

The Division's decision that Ms. X. was overpaid \$278 in Food Stamps for the month of June 2023 is affirmed. An overpayment of \$278 had been established. However, nothing in this decision prevents Ms. X. from receiving a compromise or payment plan.

DATED: December 29, 2023.

By: Signed
Name: Kathleen A. Frederick
Title: Administrative Law Judge

[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 12 day of January, 2024.

By: Signed
Name: Cheryl Mandala
Title: Administrative Law Judge

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