

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

In the Matter of)	
)	
B. D.)	OAH No. 23-0691-SNA
_____)	

DECISION

I. Introduction

B. D. is a Supplemental Nutrition Assistance Program (SNAP)¹ recipient who received SNAP benefits in 2022 and 2023. The Division of Public Assistance (Division) determined that she had erroneously been overpaid SNAP benefits during 2022 and 2023 and sent her notice that she was required to reimburse the Division \$729, the amount she had allegedly been overpaid during the months of October 2022 through September 2023.

Ms. D. requested a hearing to dispute the Division's repayment requirement. Ms. D.'s hearing was held on November 21 and 28, 2023. Ms. D. represented herself and testified on her own behalf. Marie Thirlwell, a Fair Hearing representative with the Division, represented the Division and testified on its behalf. The record was held open after the hearing to allow Ms. D. to submit additional documentary evidence and for the Division's written response to any additional information provided by Ms. D.

The evidence at hearing established that the Division erroneously provided Ms. D. with medical costs deductions, which she should not have received, when it provided her with SNAP benefits during October 2022 through September 2023. This resulted in Ms. D. receiving \$729 more in SNAP benefits than she was entitled to receive. Accordingly, the Division's requirement that Ms. D. repay it the overpayment claim in the amount of \$729 is **AFFIRMED**.

II. Facts

Ms. D. is a SNAP recipient who applied to renew her benefits for her one-person household on September 20, 2022.² Her only income was then \$1,620 per month in Social Security benefits.³ In her application, she listed that her monthly costs were: rent - \$795, home insurance - \$200, telephone \$98, electricity - \$40. On the "other" expense category, she wrote

¹ The Supplemental Nutrition Assistance Program (SNAP) is also commonly referred to by its previous name of the Food Stamp Program. The term SNAP will be used in this decision.

² Exs. 5 – 5.4.

³ Ex. 5.2.

that she had \$300 per month in costs for “gas/vit/med.” In a separate entry on the same page, she wrote that she had \$100 in monthly medical costs.”⁴ At hearing, Ms. D. testified that the \$200 entry for insurance was a typographical error and that it was actually \$20 per month for renter’s insurance.

Prior to Ms. D. submitting her September 20, 2022 recertification application, she had a pending Fair Hearing regarding, in part, her medical expense deductions.⁵ In conjunction with that hearing, Ms. D. provided the Division with documentation of her medical expenses during the past several years.⁶ Following the review of Ms. D.’s documentation, the Division determined that Ms. D. should receive a “one time medical deduction[s] for September [2022]” of \$275.32. That amount was arrived at by totaling Ms. D.’s costs for Alaska Urgent Care during November 2020 through July 15, 2022, medical copays for prescriptions, and her mileage costs for the pharmacy. Costs for vitamins and anticipated dental were not allowed. That review also determined that Ms. D. had ongoing recurring monthly eligible medical deduction costs of \$29.72 for hearing aid batteries (\$20.99), prescription co-pays (two prescriptions - \$5.35), and twice monthly mileage (\$3.38).⁷ That same day, Ms. D. withdrew her hearing request on the then pending case.⁸

Ms. D. was issued benefits for September 2022, which allowed her the one time medical expense deduction of \$275.32, which after applying the SNAP program’s \$35 limit, came to \$240.23⁹ resulted in Ms. D. receiving a total of \$95 in SNAP benefits for September 2022.¹⁰ The Division, however, continued to provide Ms. D. with the same deduction amount continuously through September 2023.¹¹ This caused Ms. D. to receive a total of \$1,065 in SNAP benefits for October 2022 through September 2023, whereas she would have received \$336 in SNAP benefits for those 12 months if she had not been provided with a medical expense deduction.¹² On October 24, 2023, the Division notified Ms. D. that she would have to repay it

⁴ Ex. 5.3.

⁵ OAH Case No. 22-0692-SNA.

⁶ Exs. 3 – 3.6.

⁷ Ex. 4. *Also see* Ex. 4.6.

⁸ OAH Case NO. 22-0692-SNA.

⁹ A disabled SNAP recipient has entitled to a medical deduction for allowable medical expenses that exceed \$35 per month. 7 C.F.R. § 273.9(d)(3).

¹⁰ Exs. 7.5, 7.7.

¹¹ Exs. 7.8 – 7.20.

¹² Exs. 2,

\$729, the difference between the amount she received, \$1065, and the amount it determined she should have received, \$336.¹³

Ms. D. provided medical expense documentation during the course of the hearing:

- Medical Bills: Alaska Urgent Care, service dates May 13, 2022 – September 2, 2022 - \$801¹⁴; Alaska Radiology, service date June 8, 2023- \$480.69¹⁵;
- Pet Care Bills: VCA Animal Care – service date October 26, 2023 - \$199.20¹⁶; Petco receipt September 18, 2023 - \$39.98.¹⁷
- Automobile Expenses: Insurance July 23, 2023 – January 22, 2024- \$413.69¹⁸; Alaska DMV registration fee, October 27, 2023 - \$180.00¹⁹; Jiffy Lube service date September 27, 2023²⁰; Costco date September 27, 2023.²¹
- Various receipts for food purchases (Costco and Walmart).²²

Ms. D. also supplied a letter from her health care provider stating that she had a support animal due to her hearing impairment.²³

On October 11, 2023, the Division reviewed Ms. D.'s SNAP issuance and determined that she should not have received the \$275.32 medical expense deduction in September 2022 through September of 2023.²⁴ On October 24, 2023, the Division sent Ms. D. notice that she should have only received \$336 in SNAP benefits during October 2022 through September 2023, when she actually received \$1,065, and that she was required to repay the difference of \$729.²⁵ The Division's calculations were based upon Ms. D. having monthly social security income of \$1,620 in 2022, which increased to \$1,761 in 2023, no medical deductions during those months, rent of \$735, standard deductions for telephone and electricity, and no shelter cost allowed for insurance.²⁶

¹³ Exs. 8.12 – 8.13.

¹⁴ See Ms. D.'s November 21, 2023 filing, p. 16.

¹⁵ See Ms. D.'s November 21, 2023 filing, p. 17.

¹⁶ See Ms. D.'s November 28, 2023 filing, p. 4.

¹⁷ Ms. D.'s November 28, 2023 filing, p. 10.

¹⁸ Ms. D.'s November 28, 2023 filing, p. 5 (difficult to read copy).

¹⁹ Ms. D.'s November 28, 2023 filing, p. 6.

²⁰ Ms. D.'s November 28, 2023 filing, p. 6.

²¹ Ms. D.'s November 28, 2023 filing, p. 8.

²² Ms. D.'s November 28, 2023 filing, pp. 9 – 11.

²³ Ms. D.'s November 28, 2023 filing, p. 3.

²⁴ Ex. 7.

²⁵ Exs. 8.12 – 8.13.

²⁶ Exs. 7.5 – 8.5.

III. Discussion

The issue in this case is whether the Division was correct to require Ms. D. to repay the SNAP benefits that she received in October 2022 through September of 2023. The Division has the burden of proof in this case because it is seeking to recover paid SNAP benefits from Ms. D.²⁷

SNAP is a federal program administered by the State.²⁸ In Alaska, the Division follows the rules contained in the Code of Federal Regulations (C.F.R.) when determining both SNAP eligibility and benefit amounts.²⁹ Accordingly, the decision in this case is governed by the federal SNAP regulations.³⁰

SNAP benefit calculations begin with a household's gross monthly income, both earned income and unearned income, such as unemployment.³¹ The next step is to subtract the standard deduction.³²

After subtracting the standard deduction, a medical expense deduction is available for disabled persons. That medical expense deduction is only available for that portion of a person's medical expenses that exceed \$35, which are for prescribed medications, medical care costs (doctor's appointments, hospitalization, etc.), insurance costs, prescribed medical supplies and equipment. The list of available medical deductions does not include non-prescribed vitamins or special diets.³³ After the income and medical expense deductions are taken from the household's gross monthly income, the household's "shelter expenses" (rent/mortgage and utilities) are taken into account. A standard utility deduction of \$110 is used for electricity and a standard utility deduction of \$15 is used for telephone costs.³⁴ After applying the "shelter expenses" deduction, the result is the household's net income. The final step in the SNAP benefit calculation process is to subtract 30 percent of the household's net income from the maximum Food Stamp benefit for the household size. The result is the household's SNAP benefit.³⁵

²⁷ 7 AAC 49.135.

²⁸ 7 C.F.R. § 271.4(a).

²⁹ 7 AAC 46.010.

³⁰ The applicable regulations are located at 7 C.F.R. § 273.1 *et. seq.*

³¹ 7 C.F.R. § 273.9(b).

³² *Alaska Food Stamp Manual Addendum 4.*

³³ *See* 7 C.F.R. § 273.9(d)(3).

³⁴ Ex. 8.8.

³⁵ 7 C.F.R. § 273.10(e)(1) and (2).

It should first be noted that this decision will only address the time period during which Ms. D. was asked to repay benefits: October 2022 through September 2023. In conjunction with that, it should be noted that this decision will not address the question as to whether Ms. D. should have received a medical expense deduction in September of 2022. Nor will it address whether Ms. D. should receive a medical expense deduction after September 2023. Instead, the question is whether Ms. D. should have received an ongoing medical expense deduction during October 2022 through September of 2023.

Ms. D.'s SNAP benefits during October 2022 through September of 2023 were based upon her having only her social security income, having rent of \$735, and the Division providing her with a standard deduction for her electricity and her telephone. None of these are questioned. However, Ms. D. did claim a renters insurance premium of \$20 per month, which the Division did not allow as part of her shelter cost deduction. The federal regulation on this point is clear that insurance costs are only allowed as part of a shelter cost deduction if the insurance covers the structure. Insurance costs are not allowable if they are only for insuring furniture or other personal property.³⁶ This means that the renter's insurance costs are not covered under the shelter cost deduction, because a renter's insurance policy does not cover the structure, merely the contents. Consequently, the Division correctly did not allow her a deduction for her renter's insurance premium as part of her shelter cost deduction.

The next step is to determine whether Ms. D. should have received a medical expense deduction in October 2022 through September 2023. The Division determined in September 2022 that Ms. D. had a total of \$275 in accrued medical expenses as of September 2022, and that she should receive a one-time deduction of that \$240³⁷ for that month, and that her regular anticipated medical expenses were \$29.72 per month.³⁸ The Division should therefore have provided Ms. D. with a one-time excess medical deduction of \$240 for September 2022 only. However, it continued to provide her with that same deduction amount through October 2023.

It should be noted that Ms. D. has provided evidence of other expenses. Food is not an allowable medical expense. Vitamins are not an allowable medical expense, unless prescribed.

³⁶ 7 C.F.R. § 273.9(d)(6)(ii)(B).

³⁷ That medical expense deduction is only available for that portion of a person's medical expenses that exceed \$35. 7 C.F.R. § 273.9(d)(3).

³⁸ Ex. 4.

Vehicle expenses are not generally allowable as medical expenses.³⁹ Service animal expenses are only allowed for prescribed animals with specialized training.⁴⁰ In addition, the Division is required to reasonably anticipate a person's income and expenses when determining benefits.⁴¹ This means that any excess medical expense deduction is normally based upon anticipated normal recurring expenses, such as standard prescriptions, or regular appointments. For one time only medical deductions, which would include items such as Urgent Care visits – which are not predictable, the recipient can elect a one-time deduction or to have the amount averaged over the certification period.⁴² Medical expenses that were not reported when they occurred, can be reported at recertification, and those will be “considered in determining [the recipient's] monthly medical deduction for the new certification period.”⁴³ In this case, this is what occurred. Ms. D. provided the Division with her medical expense information when she recertified in the fall of 2022. The Division reviewed those expenses – it did not average her expenses over the new certification period and allowed them as a one-time expense for one month – September 2022.

The question then arises as to whether Ms. D. should have had a continuing excess medical expense deduction of \$240⁴⁴ after September 2022. The only evidence shows that she had recurring reasonably anticipated medical expenses of \$29.72 thereafter. While the evidence shows that she had Urgent Care Costs and Radiology costs thereafter, there is no evidence in the record that she reported them contemporaneously. Instead, they could be considered at her next recertification.⁴⁵ Similarly, her service animal costs could be considered at her next recertification.⁴⁶

The weight of the evidence therefore shows that Ms. D.'s routine regular anticipated medical expenses, as of October 2022 through September 2023, were \$29.72 monthly. Because this is less than \$35 per month, she was not then entitled to an excess medical deduction. It therefore follows that she should not have received an ongoing excess medical deduction of \$240 during those months. This resulted in her being overpaid a total of \$729.

³⁹ 7 C.F.R. § 273.9(d)(3).

⁴⁰ Exs. 12 – 12.1.

⁴¹ 7 C.F.R. § 273.10(d)(4).

⁴² 7 C.F.R. § 273.10(d)(3).

⁴³ Ex. 12.3.

⁴⁴ \$275 minus \$35.

⁴⁵ See Exs. 16.10 – 17.1 reflecting that the Alaska Radiology (\$480.69) and Urgent Care (\$801) costs were utilized in calculating Ms. D.'s SNAP benefit amount for December 2023 forward.

⁴⁶ This decision expresses no opinion regarding whether Ms. D.'s animal qualifies as a service animal.

The question then arises as to whether Ms. D. must repay the \$729 she was overpaid during October 2022 through September 2023. The Division has not claimed fraud and the evidence shows Ms. D. received \$729 more in benefits than she should have because the Division erroneously continued to provide her with an excess medical deduction during those months. This was the Division’s error. It was not Ms. D.’s error.

The federal statute that addresses SNAP overpayments, 7 U.S.C. § 2022(b)(1), provides that the “state agency *shall* collect any issuance of benefits issued to the household . . .” [emphasis added]. The specific federal regulation pertaining to the recoupment of SNAP 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 . . .” 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.” The Alaska Supreme Court has ruled that these federal requirements apply to Alaska SNAP recipients.⁴⁷ Even though the overpayment was caused by the Division’s error, the Division is required to recover the overpaid benefits,

IV. Conclusion

The Division’s determination that Ms. D. is required to reimburse the Division \$729 for overpaid SNAP benefits is AFFIRMED.

Dated: December 28, 2023

By: Signed
Signature
Lawrence A. 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.]

⁴⁷ *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

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 11 day of January, 2024.

By: Signed
Signature
Lawrence A. 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.]