

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

In the Matter of	)	
	)	
T.K	)	OAH No. 25-2973-SNA
_____	)	

DECISION

I. Introduction

T.K challenges the September 12, 2025 determination of the Division of Public Assistance (Division) that he was overpaid SNAP (food stamp) benefits from September 2024 through September 2025 as he was living in a group home that provided over 50% of his meals. He asserts he did not like the food, and that he advised the Division in May 2025 that he had moved out of the home. The hearing was held telephonically on October 28, 2025, as scheduled. Mr. K was present and represented himself; Ms. Marie Thirlwell represented the Division. The Division’s exhibits were admitted without objection. Mr. K testified on his own behalf. The record closed at the end of the hearing.

Because Mr. K was a resident of an institution that provides the majority of meals to residents as a regular service, he was ineligible to receive food stamps. Accordingly, the Division’s decision to recoup the overpaid benefits is AFFIRMED.

II. Facts

Mr. K applied for food stamps on August 12, 2024, listing his home address as Address A, Anchorage, Alaska, the Home 1.¹ Mr. K included with his application documentation that the home is owned by W.P, and that residents are charged \$900 monthly for rent, which includes breakfast, lunch and dinner.² He was approved for benefits in the amount of \$214 for the partial month of August 2024, then \$374 per month thereafter through July 2026.³

Mr. K testified that he became a resident of the Home by way of a “behavioral placement” following his discharge from the Hospital in Anchorage.⁴ Mr. K explained that he did not like the food at Home 1, which he described as unappealing and “not prepared by professional chefs.”

¹ Ex. 2.

² Ex. 5-5.1.

³ Ex. 3. The benefit awards were contingent on his continued eligibility.

⁴ K testimony.

In the spring of 2025 Mr. K moved out of the Home 1. He submitted a Change Report Form to the Division on May 1, 2025, listing his new residence as Address B, beginning April 1, 2025.⁵

In August 2025 Mr. K's food stamp application was subject to an internal audit.⁶ Under the food stamp regulations, residents of an institution that provides the majority of their meals are generally ineligible for food stamp benefits.⁷ The audit revealed that Mr. K's August 2024 food stamp application, therefore, was approved in error, as at the time he applied Mr. K was residing in an institution that provided both room and board.

A recoupment notice was sent to Mr. K on September 12, 2025.⁸ The notice advised him that he owed \$4,898 in food stamp overpayments for the months of September 2024 – September 2025 and offered repayment options.⁹ If he disagreed with the determination he could file a request for appeal.¹⁰

Mr. K requested a hearing to challenge the repayment requirement on September 18, 2025.¹¹

III. Discussion

Food Stamps is a federal program administered by the state.¹² Alaska follows the rules in the Code of Federal Regulations (C.F.R.) when determining Food Stamp eligibility.¹³ In general, the federal regulation at 7 C.F.R. § 273.1(b)(7)(vi) makes individuals ineligible for Food Stamps if they receive “over 50 percent of three meals daily” from an institution. Mr. K agrees that he is in this category, despite finding the food served at the Home 1 unappealing. The only exceptions relate to certain individuals in federally subsidized elderly housing, in group living arrangements

⁵ Ex. 11-11.1.

⁶ Ex. 4. The audit was conducted pursuant to a Corrective Action Plan (CAP) which is a federally mandated review process implemented when a state has a payment error rate of 6% or higher. 7 C.F.R. § 275.16.

⁷ See 7 C.F.R. § 273.1(b)(7).

⁸ Ex. 8-8.23.

⁹ In the prehearing Position Statement, the Division represented that the repayment period was August 2024-September 2025. However, pursuant to quality control audit notes and the September 12, 2025 advisement of the overpayment sent to Mr. K by the Division, the overpayment period identified is September 2024 – September 2025. See Ex. 4, 8.1. Additionally, 7 C.F.R. § 275.12(a) states that regarding quality control reviews of active cases, the review date shall always fall within the sample month, either the first day of a calendar or fiscal month or the day of certification, whichever is later. Therefore, the repayment period is determined to be September 2024 – September 2025.

¹⁰ *Id.*

¹¹ Ex. 9.

¹² 7 C.F.R. § 271.4(a).

¹³ 7 AAC 46.010.

for disabled or blind people, in homeless or battered women’s shelters, or in treatment facilities for addiction. Mr. K is not in any of these subcategories, and therefore his food stamp application was approved in error.

Furthermore, in May 2025 Mr. K advised the Division of his relocation out of Home 1 and into the Address B. Nothing in the record indicates that his Change Report form was ever processed by the Division, resulting in his continuing to receive food stamp benefits without an updated determination of his household eligibility.

Mr. K is understandably frustrated with the Division’s errors in his case, including the incorrect approval of his 2024 food stamp application and the failure to act on his May 2025 Change Report form. However, federal law requires the Division to pursue an overpayment claim even where the overpayment was caused by “an action or failure to take action by the State agency.”¹⁴ The Alaska Supreme Court confirmed this in *Allen v. State*.¹⁵ In that case, two food stamp recipients received excess benefits due to agency error. The court in that case recognized that the federal law may raise a concern about fairness, but found that Congress had already taken this concern into account in shaping the policy behind the regulation:

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.¹⁶

The federal regulations and the *Allen* decision are binding on the Department of Health and support the Division’s conclusion that it is required to pursue a claim for the overpayment in this case, even though it was caused by agency error.¹⁷

IV. Conclusion

¹⁴ 7 C.F.R. § 273.18(b)(3).

¹⁵ 203 P.3d 1155 (Alaska 2009).

¹⁶ *Id.* at 1164 (footnotes omitted).

¹⁷ The Division is encouraged to exercise this flexibility should Mr. K request his claim be compromised. In calculating the overpayment balance, the Division might consider the directives set forth in 7 C.F.R. § 273.18(c)(1)(ii)(C) and reevaluate Mr. K’s eligibility the months following his report of an address change.

The Division's determination that Mr. K is obligated to repay the overpaid SNAP benefits is AFFIRMED. However, nothing in this decision prevents Mr. K from requesting that the benefit recovery unit of the Division compromise the claim.¹⁸

Dated: November 11, 2025

Signed

Danika B. Swanson
Administrative Law Judge

¹⁸ Contact information for the State of Alaska, Department of Health, Public Assistance Benefit Recovery Unit may be found at <http://dpaweb.hss.state.ak.us/node/28>.

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 5th day of December 2025.

By: Signed
Name: Danika B. Swanson

Title: Administrative Law Judge

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