

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

In the Matter of	)	
	)	
J. H.-C.	)	OAH No. 23-0524-HAP
_____	)	

DECISION

I. Introduction

J. H.-C. is challenging a denial of Low Income Energy Assistance Program (“LIHEAP”) benefits by the Division of Public Assistance (“DPA”). The sole dispute is which federal poverty guidelines DPA applied — the guidelines issued in January 2022 or January 2023. Under DPA’s longstanding interpretation of its regulations, it follows poverty guidelines on an October 1 – September 30 schedule and therefore will not start applying the 2023 guidelines until October 1, 2023. Applying the 2022 guidelines to Ms. H.-C.’s application, DPA correctly determined that she was ineligible for LIHEAP benefits.

II. Facts

DPA received a LIHEAP application from J. H.-C. on February 24, 2023.¹

LIHEAP is a federally funded assistance program that provides assistance with home energy costs. In Alaska, eligibility is determined by a point system based on an applicant’s income and living situation. Total points of 2.0 or higher is needed to qualify for benefits.²

Ms. H.-C. provided the following information and was awarded the following points accordingly:

Circumstances	Points Calculation
Lives in Anchorage with her two adult children; uses natural gas heat ³	5 points ⁴

¹ Ex. 1.1.

² 7 AAC 44.080(m).

³ Ex. 1.2-4. Ms. H.-C. marked both electricity and natural gas as her main heat sources on the application, but on the same page identified Enstar Natural Gas as her heat vendor and submitted copies of bills for natural gas. Ex. 1.4.

⁴ 7 AAC 44.080(f); 7 AAC 44.9001.

Two-bedroom apartment in building with four or more units. ⁵	multiply by 0.7 ⁶ $5 * 0.7 = 3.5$
Monthly income of \$1262.67, which is between 50.01% and 75% of the Alaska poverty guideline for a household of three. ⁷	multiply by 0.8 ⁸ $3.5 * 0.8 = 2.8$
Disabled. ⁹	add 1 ¹⁰ $2.8 + 1 = 3.8$
Lives in subsidized housing ¹¹	multiply by 0.50 ¹² $3.8 * 0.50 = 1.9$
Total Points:	1.9

Because DPA calculated Ms. H.-C.’s points as less than two, it denied her application.¹³

DPA issued a denial, but not a breakdown of its calculation. Ms. H.-C. was told she would have to appeal the decision to see an explanation of the calculation.¹⁴ Thus she timely appealed on June 21, 2023. That appeal entitles her to a hearing, proposed decision, opportunity to submit a proposal for action on the proposed decision, and final Commissioner’s office decision by September 19, 2023.¹⁵ DPA delayed referring this matter to OAH until August 22, 2023.¹⁶ DPA provided a position statement and exhibits on August 30 and a hearing was held September 7.

⁵ Ex. 1.3.

⁶ 7 AAC 44.080(g)(7).

⁷ Ex. 1.5; Ex. 10.

⁸ 7 AAC 44.080(i)(3).

⁹ Ex. 1.3.

¹⁰ 7 AAC 44.080(k).

¹¹ Ex. 1.3.

¹² 7 AAC 44.080(l).

¹³ Ex. 1.

¹⁴ H.-C. testimony.

¹⁵ Ex. 3; 7 AAC 49.180.

¹⁶ The Division is required by regulation to either refer a hearing request to OAH, or deny the hearing request, “[n]ot later than 10 days after the department receives a hearing request.” 7 AAC 49.080. Thus when Ms. H.-C. requested a hearing on June 21, 2023, the Division was required to refer the matter to OAH no later than July 1. The Division did not refer the appeal to OAH until August 22, 2023.

III. DISCUSSION

At the hearing, Ms. H.-C. explained that after receiving DPA’s documents, she reviewed and checked its points calculations.¹⁷ She agreed with everything but DPA’s determination of how her income compares to the federal poverty guidelines for Alaska.¹⁸ She initially speculated that DPA had been applying the poverty guidelines for the lower 48 rather than Alaska.¹⁹ Upon further questioning, however, Ms. H.-C. explained that she had been looking at the current federal poverty guidelines on the United States Department of Health and Human Services website.²⁰

The regulations and other materials provided by DPA refer to an applicant’s income in relation to the “Alaska poverty level,” defined as “the level set out in the federal poverty guidelines for Alaska established annually by the United States Department of Health and Human Services.”²¹ The DHHS sets poverty guidelines each January. Because Ms. H.-C. applied for HAP benefits in February 2023, it is completely understandable that she looked at DHHS’s website for its current poverty guidelines, issued by that federal agency in January 2023.

DPA, however, interprets its regulations as following the DHHS poverty guidelines as of October 1 of a given year. Thus the poverty guideline chart DPA followed here is labeled as “FFY 2023, Federal Poverty Income Guidelines, October 1, 2022 – September 30, 2023.”²² At the bottom of this chart, it notes that the information is “[b]ased on January 2022 Federal Register Notice.”²³ DPA explained at the hearing that even though DHHS issues new poverty guidelines every January, DPA follows the same poverty guidelines from October 1 through September 30 each year to mirror the seasonal nature of heating needs.²⁴ Thus starting on October 1, 2022, DPA started applying the DHHS poverty guidelines for Alaska in place at that time — which were the guidelines issued in January 2022 — and will continue to apply those same guidelines through September 30, 2023.²⁵

¹⁷ H.-C. testimony.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ 7 AAC 44.080(i); 7 AAC 44.900(2).

²² Ex. 10.

²³ *Id.*

²⁴ Thirlwell testimony.

²⁵ *Id.*

Thus while it is understandable that Ms. H.-C. questioned DPA's calculations based on the 2023 poverty guidelines, DPA will not start applying those 2023 guidelines until October 1, 2023. Applying the 2022 guidelines, as detailed in the table above, DPA correctly determined that Ms. H.-C.'s circumstances result in 1.9 points, which is below the 2.0 point threshold to qualify for LIHEAP benefits.

As discussed at the hearing, Ms. H.-C. may reapply for LIHEAP benefits.

IV. Conclusion

For the reasons discussed above, DPA's decision is affirmed.

Dated: September 8, 2023

Signed

Rebecca Kruse

Administrative Law Judge

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 18th day of September, 2023.

By: Signed
Name: Rebecca Kruse
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.]