

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

In the Matter of	)	
	)	
E. W.	)	OAH No. 23-0568-SNA
_____	)	

DECISION

I. Introduction

E. W. applied for benefits under the Supplemental Nutrition Assistance Program¹ (“SNAP”) in July 2022 using an application from which she removed pages that asked for information she regarded as unnecessary. The Division of Public Assistance (the “Division”) quickly approved Ms. W. for short-term benefits based on the limited information she provided, and mailed her notices asking for the information missing from her application. No response was received to those notices, which means Ms. W.’s benefits should have been terminated at the end of August 2022. Due to an error on the Division’s part, however, Ms. W. continued to receive benefits worth \$1,375 through December 2022.

Ms. W. requested a hearing to dispute the Division’s subsequent repayment claim, which was held telephonically on September 25, 2023. Ms. W. represented herself and testified on her own behalf. Jeff Miller, a Fair Hearing representative, appeared for the Division and testified on its behalf. Fourteen exhibits offered by the Division were admitted into evidence.

The evidence and testimony established that, due to an oversight on the Division’s part, Ms. W. received four months of SNAP benefits she was not eligible to receive. Even though Ms. W. was not at fault for this oversight, federal law is clear that SNAP recipients must repay benefits they receive in error, regardless of the cause. Accordingly, the Division’s overpayment claim of \$1,375 is AFFIRMED.

II. Facts

Ms. W. applied for SNAP benefits using the Division’s standard “GEN 50C” application form that was faxed to the Division on July 19, 2022.² In filling out her application, Ms. W. simply removed pages from the form that she did not regard as meaningful to her

¹ Prior to a 2008 name change, this program was known the Food Stamps Program.

² Ex. 3 at 3.1 – 3.9. The full version of this application form is available online at <http://dpaweb.hss.state.ak.us/e-forms/pdf/GEN-50C.pdf>.

circumstances.³ As a result, the application Ms. W. signed and submitted to the Division omitted two pages which asked for information regarding her assets, expenses, and criminal history, and two other pages which asked for information about others living in her household (including their income).⁴ In the pages of the application she did submit, Ms. W. checked boxes indicating that she had less than \$100 in hand, a gross monthly household income below \$150, and housing expenses exceeding the financial resources available to her.⁵

Based on this limited information Ms. W. was approved for two months of short-term benefits on an expedited basis.⁶ Since Ms. W. provided no information about others living with her, the Division assumed she was a household of one person when calculating her benefit amount.⁷ The Division could not approve Ms. W. for more than short-term benefits until she provided the missing information regarding her personal finances and criminal history.⁸

To gather this information the Division first tried contacting Ms. W. by phone on July 26, 2022, but no one answered the call.⁹ The Division's records show that two separate notices were then mailed to her on July 27, 2022, both of which advised that her continuing eligibility for SNAP benefits was contingent upon her providing the information omitted from her application by August 8, 2022.¹⁰ These notices were sent to the mailing address Ms. W. listed in her application, and there is no indication in the Division's records of them being returned as non-deliverable.¹¹ That deadline passed without any response from Ms. W.¹²

Given this, the Division acknowledges that Ms. W.'s SNAP benefits should have terminated at the end of August 2022.¹³ Due to an oversight on the Division's part, however, she continued to receive benefits. Several months later the Division identified this error, and on December 5, 2022, it mailed Ms. W. a notice advising that her SNAP benefits were being terminated at the end of that month on account of the information missing from her application.¹⁴

³ Ms. W. testimony.

⁴ Ex. 3 at 3.2-3.3 and Ex. 4.

⁵ Ex. 3 at 3.1, 3.3 – 3.4.

⁶ Ex. 5.

⁷ Jeff Miller testimony.

⁸ Ex. 4.

⁹ Ex. 3 and Jeff Miller testimony.

¹⁰ Ex. 5 at 5.1 – 5.3.

¹¹ Ex. 3 at 3.1 and Ex. 5; Jeff Miller testimony.

¹² Jeff Miller testimony.

¹³ Jeff Miller testimony.

¹⁴ Ex. 8.

Ms. W. did not request a hearing to challenge this termination.¹⁵ There is no indication in the Division's records of this notice being returned as non-deliverable.¹⁶ Ms. W. was erroneously paid \$1,375 of benefits prior this delayed termination.¹⁷

On August 1, 2023, the Division mailed Ms. W. an overpayment notice advising that she owed for \$1,375 for the SNAP benefits paid to her in error between September and December 2022.¹⁸ This notice was mailed to the same address the Division had sent its earlier notices to Ms. W., and she timely requested a hearing in response.¹⁹

During her hearing, Ms. W. testified that in submitting her application she subjectively believed that she easily qualified for SNAP benefits due to a lack of income and assets – and thus did not need to provide the Division with detailed financial information. Based on this belief, she removed the pages from the application which asked for that information. Ms. W. did not offer an explanation regarding her failure to provide information regarding her criminal history.

The primary issue of concern for Ms. W. was a perceived lack of notice from the Division regarding the problems caused by her incomplete application. Contrary to what the Division's records show, Ms. W. contends she was never mailed any notices by the Division advising that her benefits were at risk of being terminated due to the incomplete information she had provided. Ms. W. testified that she keeps such a close eye on her mail that she would have promptly responded to those notices if they had in fact been mailed to her. In this part of her testimony, Ms. W. referenced the fact that the other two people living with her in the latter half of 2022 (a roommate and a domestic partner) did not have a key to the apartment's mailbox and thus could not have disposed of any incoming mail without her knowledge. Ms. W. did not offer any explanation as to why she chose not to provide information regarding these individuals in her benefits application.

III. Discussion

SNAP is a federal program which is administered by the State of Alaska.²⁰ To administer the program in Alaska, the Alaska Department of Health has adopted the federal regulations

¹⁵ Jeff Miller testimony.

¹⁶ Jeff Miller testimony.

¹⁷ Ex. 9.

¹⁸ Ex. 9.

¹⁹ Ex. 9.

²⁰ 7 C.F.R. § 271.4(a).

governing the program.²¹ Accordingly, the decision in this case is governed by the federal SNAP regulations.²² The Division has the burden of proof in this case because it is seeking to recover paid SNAP benefits from Ms. W.²³

The first step in resolving this case is determining whether Ms. W. failed to provide the information required for the Division to grant ongoing SNAP benefits. This is established by the Division's records, and Ms. W.'s acknowledgement during her testimony that she knowingly removed pages from her application that asked for information she did not regard as relevant to her circumstances.

The next step is to determine whether Ms. W. failed to comply with the information request, or instead refused to comply. This is more than just a subtle semantical difference, since the federal regulations governing the SNAP program provide that a "failure to comply" would not be grounds for a termination, whereas a "refusal to comply" is grounds for terminating benefits.²⁴

Here, the weight of the evidence shows a knowing refusal by Ms. W. to provide information to the Division. This is not a situation where Ms. W. simply overlooked a few pages of a lengthy application form; to the contrary, she intentionally removed four pages from the application she filled out based on her incorrect belief that the Division did not need that information. It should be noted that the information on the removed pages is highly relevant. SNAP eligibility and benefit levels are based upon the size of the SNAP household, which would involve her roommates, and the income, countable household expenses ("shelter costs"), and assets of all persons, including roommates, who are a part of the household.²⁵

While Ms. W. contends that she never received the notices which the Division's records show were mailed to her in July 2022, those were sent to the same address Ms. W. listed on her the application earlier that month. This is also the same address to which the overpayment notice was sent in August 2023, which Ms. W. indisputably received.

In past cases where benefit recipients have asserted a similar lack of notice, a rebuttable presumption has been applied that a notice which is mailed and not returned as undeliverable

²¹ 7 AAC 46.010.

²² The applicable regulations are located at 7 C.F.R. § 273.1 *et. seq.*

²³ 7 AAC 49.135.

²⁴ 7 C.F.R. § 273.2(d)(1).

²⁵ 7 C.F.R. § 273.8(b), 273.9, and 273.10(e).

was in fact received by the recipient.²⁶ Ms. W. has not provided evidence sufficient to rebut that presumption here. A key consideration in this regard is Ms. W.'s subjective belief that her incomplete application provided all the information needed to establish her eligibility for ongoing SNAP benefits. The fact Ms. W. did not believe she was obligated to provide all the information sought in the application form increases the likelihood of her later disregarding the Division's efforts to gather that same information.

Accordingly, the Division has shown by a preponderance of the evidence that Ms. W. knowingly failed to provide the information sought in the pages she removed from the benefits application she submitted in July 2022, and chose not to respond to notices the Division sent later that month which asked her for that information. This constitutes a refusal to provide requested information for which the Division should have terminated Ms. W.'s SNAP benefits in August 2022. The benefits she received for the period of September through December 2022 were accordingly paid in error.

The fact the Division paid benefits in error does not eliminate Ms. W.'s repayment liability. The federal statute addressing 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 these federal requirements apply to Alaska SNAP recipients.²⁷

Thus, even though the overpayment here was caused by the Division's failure to promptly terminate Ms. W.'s benefits in August 2022, the Division remains obligated by federal law to recover the \$1,375 of overpaid benefits she received in the months which followed.

IV. Conclusion

²⁶ See, e.g., *In re: U.T.*, OAH No. 12-0411-CMB (Dep't of Health & Soc. Servs. 2012) (published at <https://aws.state.ak.us/OAH/Decision/Display?rec=6251>); *In re: C.C.*, OAH No. 14-2008-MDE (Dep't of Health & Soc. Servs. 2014) (published at <https://aws.state.ak.us/OAH/Decision/Display?rec=2168>).

²⁷ *Allen v. State, Dep't of Health & Soc. Servs.*, 203 P.3d 1155, 1164 - 1166 (Alaska 2009).

The Division's determination that Ms. W. is required to reimburse the Division \$1,375 for overpaid SNAP benefits is AFFIRMED.

Dated: October 4, 2023

Signed

Max Garner

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 19th day of October, 2023.

By: Signed

Name: Max Garner

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.]