

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

In the Matter of	)	
	)	
N. M. J.	)	OAH No. 23-0596-SNA
_____	)	

DECISION

I. Introduction

As of February 2023, N. J. became a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits, commonly known as Food Stamps. When she did not submit a recertification application in July of 2023, her benefits were terminated. She appealed. In the meantime, she reapplied, and benefits were restored after a 30-day hiatus.

This decision affirms the termination. Although Ms. J.’s error was understandable, there was no agency error of a kind that could entitle her to the lost benefits.

II. Facts

There are no material facts in dispute in this case. N. J. applied for Food Stamps on February 6, 2023. Like many applications during early 2023, processing of hers was delayed. On April 17, 2023, her application was approved retroactive to February. The written notice of approval informed her:

If you remain eligible, you will get SNAP through JULY 2023. You will need to reapply for continued participation at the end of this certification period.¹

Her first benefits (including the retroactive benefits) were credited in April.²

On June 1, 2023, all Alaska SNAP recipients were sent a “Dear Alaskan resident” letter that included the following relevant text:

Alaska implemented a change to our SNAP recertification period. Effective June 1, 2023, most SNAP households will be given a recertification period of 12 months. . . . With the change in SNAP certification period length, all active SNAP recipients or households will be required to complete an Interim Report halfway through their certification period to confirm they are still eligible Interim reports will be mailed to households the month prior to the month they are due³

Ms. J. received this letter at her mailing address in Anchorage. She interpreted it to mean that there was a lot more time until she would need to do anything about her benefits.⁴

¹ Ex. 2.1.
² Testimony of Ms. J.
³ Ex. 4, 5.
⁴ Testimony of Ms. J.

On June 16, 2023, at the same address, the Division of Public Assistance (DPA) sent Ms. J. a “SNAP RECERTIFICATION” notice, enclosing an Eligibility Review Form. It stated:

To avoid delay in benefits, we must receive the recertification form no later than the 15th of July. Your SNAP case will close July 31, 2023 if you do not submit this recertification form.⁵

Ms. J. says she did not receive this particular mailing, explaining that many items are misdelivered at her community mailboxes. She did not realize anything was amiss until her benefits were not credited on August 1.

Ms. J. appealed the termination on August 23, 2023 via a polite email explaining her puzzlement.⁶ Soon afterward, she learned (apparently not from DPA) that she could still submit a late recertification form, and she did so on August 31.⁷ Benefits were ultimately reinstated as of that date, but a net \$326 in benefits were lost due to the delay in recertification.⁸

The referral of Ms. J.’s appeal to the Office of Administrative Hearings was delayed, occurring two weeks after the statutory deadline. Ms. J. received her hearing by telephone on October 10, 2023. She represented herself and testified on her own behalf. Public Assistance Analyst Sally Dial represented DPA, also giving some factual testimony. All submitted documents were admitted to the record, which closed at the end of the hearing.

III. Discussion

SNAP benefits, or Food Stamps, are governed by federal law, which establishes the rules for determining an individual’s or household’s eligibility. Federal regulation 7 C.F.R. § 273.14(a) provides that no household may continue to participate in the program beyond the expiration of that household’s certification period. Administering state agencies must provide the recipient of a reminder of the need to recertify during the month before the last month of the certification period.⁹

When Ms. J.’s benefits were approved, she was given a certification period of six months (February through July) and told that she would have to reapply at the end of that certification period. A reminder of the need to recertify, along with a form to do so, was mailed to the correct

⁵ Ex. 3. Testimony of Sally Dial established that, more likely than not, the notice was sent on June 16.

⁶ Ex. 4.1.

⁷ Testimony of Ms. J.

⁸ Testimony of Sally Dial. Ms. J. received \$11 for August instead of \$337.

⁹ 7 C.F.R. § 273.14(b)(1)(i).

address. Thus, the prerequisites were met that required the agency to stop her benefits at the end of the certification period.

Two things went awry to cause Ms. J. to miss the recertification. First, Ms. J. did not receive the recertification reminder that was mailed to her. However, there is no evidence that this was the agency's fault. Ms. J. had, in any event, been previously told that her eligibility would need to be recertified by July 31. The second thing that went wrong was that Ms. J. interpreted the June 1 letter to mean that she would not need to do anything further for a number of months.

Under some circumstances, when a government agency misdirects a person, the government is bound by the erroneous instructions it gave.¹⁰ But although DPA's June 1 letter was not a model of clarity, it was not directly misleading, either. The text of the letter was consistent with the idea that "most" *new* certification periods "will be" 12 months. It does not say that people who have already been given six-month recertification periods can ignore their existing recertification deadlines.¹¹ Further, it says that even people with the new 12-month periods will be required to submit an "Interim Report" "in the sixth month." Thus, even a person assuming that old certification periods were being superseded would be on notice that *something* would have to be submitted in the sixth month. July was Ms. J.'s sixth month of eligibility, and she regrettably did not check to see why she had not received anything—a recertification application or a report to fill out—by that month.

This is not to say that Ms. J. was negligent. Anyone's mail can get lost, and conscientious but busy people could understandably make the mistaken assumptions she made. However, there was no direct misinformation provided by DPA and there is not legal basis to disregard the federal prohibition on paying benefits to a person who fails to timely recertify.

IV. Conclusion

DPA's decision to terminate the benefits of Ms. J.'s household on July 31, 2023 is affirmed.

¹⁰ See, e.g., *Crum v. Stalnacker*, 936 P.2d 1254, 1256 (Alaska 1997) (applying estoppel against the government in a retirement benefits case to correct an inequity resulting from the agency not providing the retiree with the form needed to secure the benefit sought); accord *Wassink v. Hawkins*, 763 P.2d 971, 975 (Alaska 1988) (applying the same four-element test in a case asserting an estoppel defense against government enforcement action). It is not certain that the exact doctrine set out in these cases would apply to the federally-governed Food Stamps program, but a similar principle might apply.

¹¹ It probably would have been better if it had explicitly stated that this was *not* the case, i.e., that previous deadlines still stand.

Dated: October 11, 2023.

Signed

Christopher Kennedy
Administrative Law Judge

Adoption

The undersigned 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 17th day of October, 2023.

By: Signed
Christopher Kennedy
Administrative Law Judge

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