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

In the Matter of	)	
	)	
O. K.	)	OAH No. 23-0738-SNA
	)	

DECISION

I. Introduction

The Division of Public Assistance ("DPA") denied Supplemental Nutrition Assistance Program ("SNAP") benefits for O. K. because his household's monthly income exceeds the SNAP program's gross income limit. The evidence demonstrates that Mr. K.'s household indeed exceeds the limits to qualify for SNAP benefits. Accordingly, DPA was correct to deny benefits and its decision is affirmed.

II. Facts

O. K. applied for SNAP benefits July 6, 2023.[1] Mr. K. has a household of eight people, including his wife, an adult daughter who turned 18 on March 11, 2023, and five minor children.[2] Mr. K. earns a monthly income of $6549.76 from a job with the Department of Defense and $327.99 from a Veteran's Affairs benefit payment, for a total gross monthly income of $6877.75.[3] Mr. K.'s adult daughter also receives a Social Security Survivor's Benefit of $487.50 per month, bringing the household's gross monthly income to $7365.25. DPA determined that the household's gross monthly income exceeds the maximum limit for SNAP eligibility and denied the application.[4]

Mr. K. appealed.[5] A hearing was started on December 14, 2023, continued for DPA to re-send documents, and completed December 19, 2023.

III. Discussion

To receive SNAP benefits, a household's income may not exceed a gross income limit.[6] The federal government sets the gross income limit every October based on federal poverty

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1 Ex. 1.
2 Id.
3 Ex. 2.
4 Id.
5 Ex. 3.
6 7 C.F.R. 273.9(a)(1); Ex. 6.

guidelines.[7] For Alaska, the limit is 130 percent of the federal poverty guidelines for Alaska.[8] The gross income limit for an eight-person household in Alaska, set in October 2022 and applicable through September 30, 2023, is $6315 per month.[9] Mr. K. does not dispute his monthly income or that it exceeds the gross income limit for SNAP.

Mr. K. raised four arguments on appeal. The first is that his adult daughter's Survivor's Benefit should not be included in the household income because she attends high school. Mr. K. pointed to a provision in the Food and Nutrition Act of 2008, which states that "income earned by a child who is a member of the household, who is an elementary or secondary school student, and who is 17 years of age or younger" is excluded from the household's income.[10] Mr. K. argues his daughter's income should be excluded because she continues to attend school. But the language of the statute unambiguously requires a child to be *both* attending school and under 18 for their income to be excluded. Mr. K.'s daughter was over 18 when he applied for SNAP benefits in July 2023, so this exclusion does not apply. And even if the exclusion did apply, Mr. K.'s own monthly income of $6877.75 exceeds the gross monthly limit of $6315.

Second, Mr. K. argued that the gross income limit should not apply to his household because he has applied for disability benefits for his adult daughter. Households that "contain an elderly or disabled member" must meet a net income limit, but not the gross income limit.[11] Mr. K. argues that even though his daughter's disability application had not been granted as of July 2023 when he applied for SNAP, and had not been granted as of the time of the hearing in this matter, her disability has existed since birth, so his household should be considered a household with a disabled member. "Disabled" in the SNAP regulations means a person who receives certain benefits for that disability.[12] SNAP eligibility is further based on a household's

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[7] 7 C.F.R. 273.9(a)(3).

[8] 7 C.F.R. 273.9(a)(1)(1)(ii).

[9] Ex. 9; https://fns-prod.azureedge.us/sites/default/files/resource-files/FY23-Income-Eligibility-Standards.pdf.

[10] 7 U.S.C. § 2014(d)(7).

[11] 7 AAC 273.9(a).

[12] 7 AAC 271.2 ("disabled member means a member of a household who . . . (2) Receives supplemental security income benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act; (3) Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act; (4) Receives federally or State-administered supplemental benefits under section 212(a) of Pub.L. 93–66; (5) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act; (6) Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under title 38 of the United States Code; (7) Is a veteran

circumstances in the month of the application, not potential future circumstances or legal status.[13] Thus the pertinent question is whether the K. household had a member in July 2023 who met the definition of "disabled" at that time. Although it is possible Mr. K.'s daughter will meet this definition of "disabled" in the future, she did not at the time of his application and continues not to meet this definition. Accordingly, the K. household was not a household with a disabled member when Mr. K. applied for SNAP benefits and the household must meet the gross income limit to be eligible.[14]

Third, Mr. K. argued that DPA should have held his application in pending status while his daughter's disability application was pending. Mr. K. points to language in DPA's SNAP Manual stating that "[w]hen the office needs the applicant to submit a complete application form, participate in an interview, or provide information needed to determine eligibility, the application is pended."[15] As DPA pointed out, this provision is limited to situation where the applicant needs to provide additional information. DPA further pointed out that the Manual limits pending status to a maximum of 30 days.[16] This 30 day limit derives from federal regulation, which provide for a state agency to pend an application for missing information, but only for 30 days.[17] If an application remains pending for missing information longer than 30 days, benefits are

considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code; (8) Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code; (9) Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under title 38 of the United States Code and has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them; or (10) Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act; (11) Is a recipient of interim assistance benefits pending the receipt of Supplemented Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits provided that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI).").

13 7 C.F.R. § 273.10(a)(1)(i).

14 As DPA discussed at the hearing, Mr. K. may want to consider re-applying for SNAP benefits if his daughter later meets the definition of "disabled."

15 Alaska SNAP Manual 601-5C (available at http://dpaweb.hss.state.ak.us/manuals/fs/fsp.htm#t=601%2F601-5.htm%23Pending_an_Application).

16 *Id.* ("Applicants will be given at least 10 days, but no more than 30 days, from the date of this notice to provide the verification. . . . f the applicant does not complete the application process, the application is denied at the end of the period provided in the notice.").

17 7 C.F.R. § 273.2(h)(2).

granted from the month the household is found eligible, not the month of the initial application.[18] Here, the daughter's disability application is not missing information that Mr. K. has yet to provide. The disability application has not been granted. And even if this could constitute missing information, federal regulation prohibits DPA from pending a July 2023 application indefinitely. If the disability application is granted in the future, and if the K. household is then eligible for SNAP benefits, federal regulation does not permit those benefits to be granted back to July 2023. Thus DPA could not have pended Mr. K.'s application indefinitely, as he argued.

Finally, Mr. K. argues that his gross income should be reduced by farming business losses. The hearing was the first time DPA learned that Mr. K. had a farming business.[19] Mr. K. explained that his family previously had a farming business in Montana, sold off the livestock before moving to Alaska in late 2022, and has started acquiring livestock again here in Alaska.[20] Mr. K. further explained that he had not filed or applied for any permits or licenses to do business in Alaska and has not yet sold any animals or animal products in this state.[21] Mr. K. explained that he did not tell DPA about his farming business during the SNAP application process because the business did not yet have any income.[22] The DPA representative stated that notes from DPA's eligibility interview with Ms. K. — who did the interview on behalf of the household — indicate that she was asked if anyone in the household was self-employed and she answered no.[23] Even assuming that the Ks omitted information about their farming business because of a misunderstanding, this information would not have changed their SNAP eligibility. Mr. K. is correct that the cost of producing income as a farmer can offset that income for SNAP eligibility purposes.[24] But this applies only when a farmer "receives or anticipates receiving annual gross proceeds of $1,000 or more from the farming enterprise" and "the cost of producing self-employment incomes exceeds the income derived from self-employment as a farmer."[25] At the hearing, Mr. K. stated that he does not expect to make any sales for his farming business until next year.[26] At the time when he applied for SNAP benefits in July 2023, he had started to

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18 7 C.F.R. § 273.2(h)(2)(ii).

19 Marie Thirlwell testimony.

20 O. K. testimony.

21 *Id.*

22 *Id.* Mr. X. submitted an email after the hearing emphasizing this point and arguing that a SNAP application asks for information about self-employment income, not the mere existence of self-employment.

23 Marie Thirlwell testimony.

24 7 C.F.R. § 273.11(a)(2)(ii).

25 Id.

26 O. K. testimony.

acquire some livestock, but had not yet pursued any regulatory or legal action to conduct business in Alaska, had no sales, and did not anticipate any sales in 2023.[27] Thus Mr. K. did not have or anticipate at least $1000 in annual gross proceeds from a farming business for 2023 at the time he applied for SNAP benefits in July 2023. Without those minimum proceeds, federal regulation does not allow the cost of producing income from a farming business to offset income for purposes of SNAP eligibility.

When Mr. K. applied for SNAP benefits in July 2023, his own income exceeded the gross income limit for a household of eight. His daughter was over the age of eighteen, so her income contributed to the household's gross income as well. His daughter did not meet the regulatory definition of disabled. And the family's farming business did not have the minimum profit necessary for its costs of business to be considered a factor. SNAP eligibility is based on a household's circumstances at the time of the application, not circumstances that may arise sometime in the future. Based on the K. household's circumstances in July 2023, they exceeded the gross income limit and therefore DPA correctly denied SNAP benefits.

IV. Conclusion

For the reasons discussed above, DPA correctly denied Mr. K.'s SNAP application. DPA's decision is affirmed.

Dated: December 20, 2023

SIGNED
Rebecca Kruse
Administrative Law Judge

27 *Id.*

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 16th day of January, 2024.

By: SIGNED
Name: Daniel R. Phelps II
Title: Project Coordinator, Department of Health
Final decision maker by delegation of the
Commissioner of Health

[This document has been modified to conform to the technical standards of publication. Names have been changed to protect privacy.]