

by people in the household.⁸ The only box filled out is for N U, who is listed as working for the U.S. Army.⁹ On the final page of the application there is a signature line with a statement of truth that asserts that the person who signs it acknowledges that all the information contained in the application is true and correct to the best of the person’s knowledge and that the individual has read and understood the “rights and responsibilities” section of the application.¹⁰ It is signed by Ms. U.¹¹

On November 30, 2015 Ms. U had a telephonic conversation with one of the Division’s Eligibility Technicians to discuss her food stamp application.¹² During the interview, Ms. U verified the last four digits of her social security number and her date of birth and told the representative that she understood her rights and responsibilities [as an applicant] and had no questions.¹³ The Technician’s comments also included the note, “..Living of[f] of N’s army pay. [] PI not working at this point.”¹⁴

Based on the information that Ms. U provided both in her application and over the phone, the Division approved her household for Food Stamp Benefits for the months of November 2015 through April 2016.¹⁵

In April of 2016, Ms. U was required to submit an Eligibility Review Form (also called a recertification form) soliciting similar information about people in the household, assets, expenses, and income.¹⁶ In the section headed, “Money Received Information,” there is a box and an explanation: “Complete if you or anyone you know is working.”¹⁷ The only name listed is, “N U, U.S. Army.”¹⁸ Again, the last page of the application includes a “statement of truth” where the person who signs asserts that under penalty of perjury everything in the application is true and correct the best of the person’s knowledge and that the individual has read the “rights and responsibilities” section of the application, including fraud penalties.¹⁹ It is signed by Ms. U.²⁰

⁸ *Id.*
⁹ *Id.*
¹⁰ *Id.*, p. 14.
¹¹ *Id.*
¹² Ex. 9, p. 1.
¹³ Ex. 9, p. 1. (“R&R: discussed with PI she states she understands and has no questions.”)
¹⁴ *Id.* Note: PI stands for “primary individual.”
¹⁵ Ex. 9, p. 6.
¹⁶ Ex., p. 8., p. 15.
¹⁷ *Id.* at 17.
¹⁸ *Id.*
¹⁹ *Id.* p. 19.
²⁰ *Id.*

On April 22, 2016, an Eligibility Technician reviewing Ms. U's recertification application found work history for Ms. U from the Department of Labor noting that in the third and fourth quarters she was employed by the No Name Group, Inc., which had not previously been reported.²¹ The Division further investigated by sending a release of information to the No Name Group, Inc. soliciting a statement regarding her wages, and sending a letter to Ms. U asking for proof of any wages she made.²² Ms. U did not respond.²³ However, the No Name Group, Inc. provided verification of wages and a statement of earnings for Ms. U that showed she was employed during the period she had claimed that Mr. U's income was the sole source of financial support for the household.²⁴ While Ms. U had reported no household income beyond Mr. U's, she actually received \$20,048.00 in undeclared income during that time.²⁵

The Division initiated an administrative disqualification action after it became aware of Ms. U's unreported employment and income, alleging that Ms. U committed a first-known Intentional Program Violation of the Food Stamp program.²⁶ The Division calculated that Ms. U received \$2,399.00 in overpaid Food Stamp benefits for the months of November 2015 through April 2016.²⁷

The Division requested an Administrative Disqualification Hearing to request that Ms. U be temporarily disqualified from receiving Food Stamp benefits, and that she be required repay the full amount of overpaid benefits.²⁸

The Division sent Ms. U a packet including the information forming the basis of this case, as well as notice of the hearing date and time, by certified, return receipt mail on May 3, 2019.²⁹ The certified copy was rerouted to an address in Shertz, Texas on May 13, 2019.³⁰ Mr. Ken Cramer, an investigator employed the Division's Fraud Control Unit, testified at the hearing that he reached Ms. U at the phone number provided in application. Ms. U was in Alaska, visiting a friend. She asked Mr. Cramer to email a copy of the documents to her, and said her husband was also going to fax her a copy of the packet that was rerouted to their address in Shertz, Texas. Additionally, Mr. Cramer offered to meet with Ms. U in person to hand deliver the information;

²¹ Ex. 9, p. 2.

²² Ex. 9, pp. 7, 8.

²³ Ex. 9, p. 8.

²⁴ Ex. 10.

²⁵ Ex. 10, pp. 4-5; Ex. 11, p. 1.

²⁶ Ex. 1.

²⁷ Ex. 1.

²⁸ Ex. 1.

²⁹ Ex. 3.

³⁰ Ex. 1, p. 3.

his offer was declined. Ms. U would not provide Mr. Cramer with her local address. It was established that Ms. U, therefore, received adequate notice of the basis of the allegations brought by the Division, as well as notice of the scheduled hearing before the Office of Administrative Hearings.

The hearing in this matter took place as scheduled on June 7, 2019 at 9:30 a.m. Ms. U did not attend the hearing, and she could not be reached by telephone. Accordingly, the hearing proceeded in Ms. U's absence as required by 7 C.F.R. § 273.16(e)(4). Mr. Cramer participated by telephone and represented the Division. The hearing was recorded. All submitted documents were admitted into the record. The record closed at the end of the hearing.

III. Discussion

As the party who brought this action, the Division has the burden of proof in this matter. The Division must prove an Intentional Program Violation of the Food Stamp program by clear and convincing evidence.³¹ To do so, the Division must show that Ms. U intentionally "made a false or misleading statement, or misrepresented, concealed, or withheld facts."³²

The Division met its burden in this case. Ms. U was employed by the No Name Group, Inc. both at the time she initially applied for Food Stamps in November 2015, and when she reapplied in April 2016, respectively. Both times, she failed to report her employment with the No Name Group, Inc. When asked to list the household sources of income, she only reported that of her husband, Mr. U. She also failed to mention her employment and income to the Division during the phone interview with the Eligibility Technician on November 30, 2015. On multiple occasions Ms. U misrepresented that she did not have a job, when she was in fact employed and receiving regular income.

Further, Ms. U's misrepresentation was intentional. She had been working at the No Name Group, Inc. for several months when she initially applied for food stamps and was still employed there when she submitted her reapplication. In fact, Department of Labor statistics reflect that in the third and fourth quarters of 2015, Ms. U earned over twenty thousand dollars through her employment.³³

During the November 2015 phone interview with a Division Eligibility Technician, Ms. U responded to specific and direct questions about her employment and income, and her

³¹ 7 C.F.R. § 273.16(e)(6). Clear and convincing evidence is established if the truth of the asserted facts is highly probable. *Saxton v. Harris*, 395 P.2d 71, 72 (Alaska 1964).

³² 7 C.F.R. § 273.16(c).

³³ Ex. 2.

understanding about her rights and responsibilities as an applicant, and again, despite her awareness of those responsibilities, falsely claimed to be unemployed. Ms. U also falsely certified that she had provided true and correct information on the November 11, 2015 application, and on the April 7, 2016 recertification form.

The only reasonable inference to be drawn from Ms. U's repeated failure to accurately respond to questions about her employment, and her repeated certification of that incorrect information as true, is that Ms. U consciously withheld this information, and that the omission was not merely inadvertent, but rather intentional.

IV. Conclusion and Order

The Division met its burden to show clear and convincing evidence that Ms. U committed an Intentional Program Violation as defined by the Food Stamp program regulations. This is Ms. U's first known Food Stamp Intentional Program Violation.³⁴ Because of the violation, Ms. U is disqualified from receiving Food Stamp benefits for a 12-month period.³⁵ She is also required to reimburse the Division for benefits that were overpaid to her as a result of her Intentional Program Violation.³⁶

The Food Stamp disqualification period shall begin one month after the issuance of the notice of disqualification by the Final Decisionmaker.³⁷ This disqualification applies only to Ms. U and not to any other individuals who may be included in her current household.³⁸ For the duration of the disqualification period, Ms. U's needs will not be considered when determining eligibility and benefit amounts for her household.³⁹ However, Ms. U must report her income and resources as they may be used in these determinations.⁴⁰

The Division shall provide written notice to Ms. U and any remaining household members of the benefits they will receive during the period of disqualification, or that they must reapply because the certification period has expired.⁴¹

³⁴ Ex. 1, p. 1.

³⁵ 7 C.F.R. § 273.16(b)(1).

³⁶ 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

³⁷ 7 USC 2015(b)(1)(i); 7 C.F.R. § 273.16(b)(13).

³⁸ 7 C.F.R. § 273.16(b)(11).

³⁹ 7 C.F.R. § 273.16(c)(1)(ii).

⁴⁰ 7 C.F.R. § 273.11(c)(1)(i).

⁴¹ 7 C.F.R. § 273.16(e)(9)(ii).

If over-issued Food Stamp benefits have not been repaid to date, Ms. U is now required to make restitution.⁴² If Ms. U disagrees with the Division's calculation of the amount of over-issuance to be repaid, she may request a separate hearing on that limited issue.⁴³

DATED: June 19, 2019.

By: Signed
Danika B. Swanson
Administrative Law Judge

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, 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 8th day of July, 2019.

By: Signed
Signature
Danika Swanson
Name
Administrative Law Judge
Title

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

⁴² 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

⁴³ 7 C.F.R. § 273.15.