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

In the Matter of	)	
	)	
B. U.	)	OAH No. 25-2971-SNA
	)	

DECISION

I. Introduction

B. U. is a Supplemental Nutrition Assistance Program (SNAP)[1] recipient who received SNAP benefits in 2024 and 2025. The Division of Public Assistance (Division) determined that she had erroneously been overpaid SNAP benefits between August 2024 and May 2025.[2] Based on this overpayment, the Division sent her notice that she was required to reimburse the Division $10,474, the amount she had been overpaid during this period.

Even though the overpayment was caused by the Division's error, and was not Mrs. U.'s fault, she is obligated to repay the overpayment. The Division's determination that Mrs. U. must repay the overpayment is AFFIRMED. Nothing in this decision should be interpreted to limit or restrict the Division's ability to create a payment plan, compromise the claim, or utilize any of the means within its discretion to reduce the financial burden of the overpayment claim.

II. Facts

Mrs. U.'s household consists of seven people: herself, her husband, and their five children. On June 19, 2024, Mrs. U. applied for SNAP benefits.[3] On July 12, 2024, the Division approved the U. household for SNAP benefits, effective June 19, 2024.[4] In approving the application for benefits, the Division calculated that Mr. U. had $3,601.80 in income from the United States Air Force and Mrs. U. had $1,473.63 income from Employer A.[5] In that

---

1 The Supplemental Nutrition Assistance Program is also known by its previous name of the Food Stamp Program. Congress changed the name of the program from the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP). The term SNAP will be used in this decision.

2 The Division only seeks to recoup benefits that have been overpaid within 12 months of the discovery of the overpayment. In this case, the lookback period is between August 2024 and August 2025.

3 Ex. 2.

4 Ex. 2.

5 Ex. 2. Mrs. U. stopped working for Employer A and began working for Employer B before the period **for which** the Division is seeking to recoup benefits. However, Mrs. U. conceded that her family's income exceeded $6,413 during all the relevant months.

application, and as her income changed, Mrs. U. promptly and correctly reported her and her husband's income. [6]

In July of 2024 Mrs. U. reported that she had begun working at Employer B.[7] Mrs. U.'s gross earnings from Employer B were:[8]

Q3 2024: 7,031.28[9]

Q4 2024: 8,266.85

Q1 2025: 9,053.29

Q2 2025: 8,097.77

Mrs. U. began working at Employer B partway through the third quarter. Her average monthly income for this partial quarter was $2,343.76. Mrs. U.'s monthly wages during the quarters with full data fluctuated from $2,699.25 to $3,017.76.

During this period, the family lived in Military Housing A. Military Housing A's address is Address A.[10] Military Housing A is located within the gates of Military Base A, on the Army side of the base.[11] The U. family receives a basic allowance for housing (BAH). While Military Housing A is owned by a private company, that BAH is sent directly to Military Housing A. The U. family never receives the BAH directly and does not pay Military Housing A any other form of rent.[12]

The U. household received benefits for a seven-person household from June of 2024 to May of 2025.[13] Unfortunately, the Division's initial income calculation did not include all of Mr. U.'s military income. When Mrs. U.'s income from Employer B and her husband's full military income were correctly calculated, their combined income undisputedly placed the family over

---

6 Testimony of Ms. Thirlwell. *See also* Testimony of Mrs. U..

7 Ex. 12.

8 Testimony of Ms. Thirlwell.

9 The third quarter began July 1, 2024. As Mrs. U. began working at Employer B partway into July, the third quarter income for 2024 does not reflect a full quarter worked.

10 Testimony of Mrs. U..

11 Testimony of Mrs. U. Additionally, a search on Google maps indicates that the U. family's address can only be reached after entering Military Base A through either of the gates on base. As a result, to access the U. family home, one must be approved for base access.

12 Testimony of Mrs. U.

13 Ex. 11. *See also* Testimony of Ms. Thirlwell. Mrs. U. testified, to the best of her recollection, she had not received the May benefit amount. However, Ex. 11 and Ms. Thirlwell's testimony about benefit utilization on the U. family's quest card establishes, it is more likely than not that Mrs. U. received the May 2025 benefit amount of $1,052.

the income limit for their household size. [14] Mrs. U. timely filed a SNAP recertification application. In processing the recertification application, the Division reviewed the case. On August 4, 2025, while reviewing Mrs. U.'s application, the Division determined that it had made an error in calculating income. After recalculating the family's income, the Division determined that the U. household should have been considered over income during the period relevant to this case. [15]

On August 18, 2025, the Division sent Mrs. U. notice that it had made an error in calculating the family's income and, as a result, she had been overpaid benefits.[16] The notice indicated that the Division was seeking to recoup benefits for August of 2024 through May of 2025. The Division is required to seek to recoup overpaid benefits for 12 months prior to the date the Division discovers the error.[17] Mrs. U.'s household received a total of $10,474 in SNAP benefits between August of 2024 and May of 2025.[18] In its notice, the Division told Mrs. U. that she was required to repay SNAP benefits in that amount.[19] Mrs. U. testified that having to repay that amount would be a significant hardship on the family.

III. Discussion

The issue in this case is whether the Division was correct to require Mrs. U. to repay the SNAP benefits that her family received between August of 2024 and May of 2025. The total amount of benefits received in this period was $10,474.

SNAP is a federal program that is administered by the State of Alaska.[20] To administer the program in Alaska, the Alaska Department of Health has adopted the federal regulations governing the program.[21] Accordingly, the decision in this case is governed by the federal SNAP

---

14 Testimony of Mrs. U.. The gross income limit for a family of seven was $6,153 through September 30, 2024. The gross income increased to $6,413 dollars in October 2024 through September 30, 2025. Mrs. U. agreed, that while there were some fluctuations in the family's income, it always exceeded $6,413 a month. On October 1, 2025, after the benefits at issue in this case, the gross income limit for Alaska was increased to $6,590 dollars.

15 Exs. 12-12.1. *See also* Testimony of Ms. Thirlwell.

16 Exs. 15-15.19.

17 7 C.F.R. § 273.18(c)(1)(i).

18 Ex. 14. While Mrs. U. believed the family had not received May benefits, the Division's exhibits prove that the total amount of benefits distributed was $10,474.

19 Exs. 15-15.19.

20 7 C.F.R. § 271.4(a).

21 7 AAC 46.010.

regulations.[22] The Division has the burden of proof in this case because it is seeking to recover paid SNAP benefits from Mrs. U..[23]

The first step in resolving this case is determining whether the Division was correct in finding that Mrs. U. was not eligible for SNAP benefits between August 2024 and May 2025. Benefit eligibility and benefit amounts are based on the income for the household and, if that income exceeds the maximum gross income for that household's size, the household is not eligible for benefits.[24]

The Division conceded that it calculated the U. family's income incorrectly and conceded that the Division was at fault for the overpayment. Mr. U.'s income comes from his service in the United States Air Force. That income is listed on a Leave and Earnings Statement (LES). In calculating Mr. U.'s income, the Division had only included his base pay of $3,601.80. However, his LES includes other potential forms of income including, basic allowance for subsistence (BAS) of $460.25, basic allowance for housing (BAH) of $2,448, and his cost-of-living adjustment (COLA) of $1,021.25. In some situations, the Division exempts BAS and BAH from the income calculation.[25] The Division's manual exempts that income when households are living on base or when their housing expenses are paid directly to the vendor. When the household is living off base and the household receives the allowance directly, the allowance is counted as earned income.

Mrs. U. conceded that the Division had incorrectly calculated her husband's income. However, Mrs. U. argued that the BAH should not have been included because the family was living on base. During this period the family was living at Military Housing A. Despite being privately owned, Military Housing A is only accessible via either of the security gates at Military Base A. While the U. family does receive BAH, that benefit is paid directly to Military Housing A and the U. family does not pay any additional rent. As Military Housing A is on base, and the BAH is paid directly to Military Housing A, it appears that it would have been appropriate to exclude the BAH from the calculation of Mr. U.'s gross income. However, even if the BAH was excluded, the U. family would still be over income.

---

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. §§ 273.9 and 273.10.
25 Testimony of Ms. Thirlwell.

The gross income limit for Mrs. U.'s household was $6,153, from the initial application until September 30, 2024. From October 1, 2024, through September 30, 2025, the gross income limit was $6,413. Even if the BAH and BAS were exempted, Mr. U.'s gross income would be $4,623.05. This, combined with the lowest calculation of Mrs. U.'s income, would place the household's income at $6,966.81.[26] As a result, the U. household was over the gross income limit from August 2024 through May 2025.

The question then arises as to whether Mrs. U. must repay the benefits that she received from August 2024 through May 2025. As all the parties agree, the overpayment was the Division's error. Certainly, being faced with repaying all benefits that were issued to her because of the Division's error is distressing. As a military family of seven, $10,474 is a large sum and repaying that full amount is likely to be a significant financial hardship for Mrs. U.'s family. Unfortunately, federal law requires the Division to pursue an overpayment claim even where the overpayment was caused by "an action or failure to take action by the State agency."[27]

The federal statute that addresses SNAP overpayments provides that the "state agency *shall* collect any issuance of benefits issued to the household…"[28] The specific federal regulation pertaining to the recoupment of SNAP benefits provides that "the State agency *must* establish and collect any claim."[29] Collection action is required even when the "overpayment [is] caused by an action or failure to take action by the State agency."[30]

The Alaska Supreme Court confirmed this in *Allen v. State*.[31] In that case, two food stamp recipients received excess benefits due to agency error. The Court in that case recognized that the federal law may raise a concern about fairness, but found that Congress had already taken this concern into account in shaping the policy behind the regulation:

---

26 4,623.05 + (7,031.28 / 3) = 6,966.81.

27 7 C.F.R. § 273.18(b)(3).

28 7 U.S.C. § 2022(b)(1) (emphasis added).

29 7 C.F.R. § 273.18(a)(2).

30 7 C.F.R. § 273.18(b)(3).

31 203 P.3d 1155 (Alaska 2009).

> We are sympathetic to the argument that it is unfair to require indigent food stamp recipients to repay benefits that were overissued to them through no fault of their own, but Congress has already made the policy decision that a ten dollar or ten percent cap on monthly allotment reduction, coupled with allowing state agencies some flexibility to compromise claims, is sufficient to mitigate this unfairness.[32]

The federal regulations and the *Allen* decision are binding on the Department of Health and require the Division to pursue a claim for the overpayment in this case, even though it was caused by agency error.

However, the Division does have some discretion in how it seeks recoupment and the total amount it seeks. If the household that received the overpayment is still receiving benefits, and the household does not want to repay the overpayment immediately in full, the household may opt to repay the overpayment through a reduction of its current SNAP benefits in the amount of $10.00 per month or 10% of the household's monthly SNAP benefit, whichever is greater.[33] The Division also retains the ability to compromise the claim, or agree to a payment plan.[34] In situations where it can be "determined that a household's economic circumstances dictate that the claim will not be paid in three years" the Division has the discretion to compromise the claim.[35] Nothing in this decision should be interpreted to limit the Division's ability to compromise, reduce, or create a payment plan for this claim.[36] As of the date of the hearing, Mrs. U. had not applied with the Benefit Issuance and Recovery Unit for any of the potential options to ease this financial burden. Mrs. U. is encouraged to do so.[37]

---

32 *Id.* at 1164 (footnotes omitted).

33 7 C.F.R. § 273.18(g)(1).

34 7 C.F.R. § 273.18(d)(7).

35 7 C.F.R. § 273.18(d)(7)(i).

36 While not an issue currently in front of this tribunal, the evidence in this case would suggest that a claim of this size, against a military family of seven, would result in significant financial hardship.

37 Contact information for the State of Alaska, Department of Health, Public Assistance Benefit Recovery Unit may be found at http://dpaweb.hss.state.ak.us/node/28 .

IV. Conclusion

As the U. family was over the gross income limit for their household size, Mrs. U. was ineligible for SNAP benefits. As a result, federal law requires the Division to seek some level of recoupment of those benefits. Accordingly, the Division's determination that Mrs. U. was overpaid benefits and is required to reimburse the Division is AFFIRMED.

Dated: November 14, 2025

SIGNED
Eric M. Salinger
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 8th day of December, 2025.

By: SIGNED
Name: Eric M. Salinger
Title: Administrative Law Judge