

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

In the Matter of	)	
	)	
M. T.	)	OAH No. 21-2451-SNA
_____	)	

DECISION

I. Introduction

M. T. was a Supplemental Nutrition Assistance Program (SNAP) benefit recipient.¹ Due to an agency error, Food Stamp benefits were issued to Ms. T. and her household from October 2020 through April 2021, although she should not have received Food Stamp benefits during that time period. Upon discovering this error, the Division of Public Assistance (DPA) notified Ms. T. that she would need to repay the Food Stamp benefits that her household was not entitled to receive during this seven-month period, which came to a total of \$3,954. Ms. T. requested a hearing.

A telephonic hearing was held on December 7, 2021. Sally Dial represented DPA while Ms. T. represented herself. There is no dispute that Ms. T. was paid SNAP benefits she was not entitled to receive and no dispute that this overpayment was the result of an agency error. Nevertheless, federal law relating to Food Stamps allows no discretion in this situation: unless the debt is compromised, Ms. T. is obligated to repay the overpayment even though it resulted from the agency's error. As a result, Ms. T. is required to repay DPA for the \$3,954 in SNAP benefits she received in error from October 2020 through February 2021 and DPA's repayment requirement is AFFIRMED.

II. Facts

Ms. T. has a three-person household, consisting of herself, her husband, and an adult son. On August 25, 2020, she submitted an application for SNAP benefits. On this application, Ms. T. indicated that she would be starting employment on August 31, 2020; however, no further information was provided concerning her potential earnings at her new job.² Ms. T.'s application was processed on August 26, 2020. She was approved to receive expedited SNAP benefits for two months but was advised whether she received Food Stamps after that

¹ Congress changed the name of the Food Stamps Program to the Supplemental Nutrition Assistance Program (SNAP). However, the program is still commonly referred to as the Food Stamp program.

² See Exhs.2.1-2.6 & 2.9.

would be dependent on her eligibility for Food Stamps.³ DPA requested additional information to continue the household's SNAP benefits beyond the month of September 2020.⁴ Specifically, Ms. T. was told that she needed to provide DPA with information concerning her new employer, hourly pay rate, number of hours worked per week and pay intervals by September 8, 2020. Moreover, Ms. T. was asked to supply information concerning how she had been paying her shelter expenses.⁵ She did not respond to this inquiry.⁶

On March 30, 2021, DPA discovered that Ms. T. had never supplied the requested information due back on September 8, 2020 and closed her Food Stamps case.⁷ DPA has acknowledged that it erred when it continued to provide SNAP benefits to the T. household after Ms. T. failed to supply the requested information.⁸ This agency error ultimately resulted in an overpayment of SNAP benefits to Ms. T.'s household for the months of October 2020 through April 2021, in the aggregate amount of \$3,954.⁹

After discovering error, the Claims Department on September 29, 2021 notified Ms. T. that her household had been overpaid \$3,954 in SNAP benefits due to an agency error.¹⁰ This notice also included information and worksheets showing how the amount of overpayment was calculated.¹¹ Ms. T. requested a hearing on October 29, 2021, stating that the agency "should be accountable for their own internal errors."¹²

At the telephonic hearing Ms. Dial acknowledged that the agency had erred but pointed out that federal law required the State of Alaska to collect this overpayment.¹³ Ms. T. did not disagree with DPA's position that she had received SNAP benefits she was not entitled to receive from October 2020 through April 2021 nor did she dispute that the aggregate overpayment was \$3,954. She also did not dispute that she had not provided the information concerning her employment that the Division had requested. She did, however, maintain that she should not be held financially responsible for the Division's error. In support of her position,

³ Exh. 4.

⁴ Exhs. 2 & 3.; *see also* DPA's Fair Hearing Position Statement, at p. 1.

⁵ Exhs. 3-3.1.

⁶ Exhs. 4-4.2.

⁷ Exhs. 4-4.1.

⁸ Exh. 5.2.

⁹ Exh. 6.

¹⁰ *See* Exhs. 6-6.2.

¹¹ Exhs. 6.3-6.14.

¹² Exh. 7.

¹³ Presentation of Ms. Dial.

she noted that the Division, on November 11, 2020, and December 4, 2020, had sent her notices inquiring why she had not used her food stamp allotment during the past 60 days, thus demonstrating the Division was aware that she was still receiving food stamps months before it contacted her about the overpayments.¹⁴

III. Discussion

Ms. T. did not comply with the Division's request to supply certain information it needed to determine her eligibility for Food Stamps. She provided no evidence suggesting that she had intended to comply with the Division's request for information or that she was unaware of the Division's request to supply additional information by September 8, 2020.¹⁵ A refusal to comply with the Division's request for information is grounds for a denial of Food Stamp benefits.¹⁶ Accordingly, Ms. T.'s eligibility for Food Stamps ended as of September 30, 2020.¹⁷ Consequently, any benefits Ms. T. and her household received beginning on October 1, 2020 were benefits that the T. household was not entitled to receive and constituted an overpayment.

DPA acknowledges that this overpayment was due to an agency error. As a result of this error, Ms. T. should not have received Food Stamp benefits after September 2020 because she did not provide the information that DPA had requested by September 8, 2020. However, overpayment that is a government mistake does not release a SNAP recipient from having to repay excess Food Stamp benefits she received.

Food Stamp benefits are governed by federal law. The federal statute pertaining to the recoupment of overpaid Food Stamp benefits is 7 U.S.C. § 2022. Subsection (b)(1) of that statute provides that the "state agency *shall* collect any overissuance of benefits issued to a household" [emphasis added]. This statute requires, on its face, that DPA attempt to recover overpaid Food Stamp benefits.

The federal implementing regulation pertaining to the recoupment of Food Stamp benefits is 7 C.F.R. § 273.18. Subsection (a)(2) of that regulation provides that "[t]he State agency *must* establish and collect any claim" [emphasis added]. Under subsection (b)(3), collection action is required even where (as here) the "overpayment [is] caused by an action or

¹⁴ See Exhs. 11-11.1; Testimony of Ms. T..

¹⁵ See Testimony of Ms. T..

¹⁶ 7 C.F.R. § 273.2(d)(1).

¹⁷ The Division had approved Food Stamp benefits for the T. household for August and September of 2020. See Exh. 3.

failure to take action by the State agency.” Thus, federal law requires DPA to attempt to recover overpaid Food Stamp benefits, even if that overpayment is the result of DPA’s own error.¹⁸

The Alaska Supreme Court in *Allen v. State of Alaska, Department of Health & Social Services* has held that these federal requirements apply to Alaska Food Stamp recipients, stating that:

We are sympathetic to the argument that it is unfair to require indigent food stamps 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.¹⁹

The federal regulations and the *Allen* decision are binding on the Department of Health and Social Services. Even though the overpayment was caused by DPA’s error, DPA is required to recover the overpaid benefits which here amount to \$3,954.

IV. Conclusion

DPA’s decision to require Ms. T. to repay it the \$3,954 in Food Stamp benefits which she and her household received from October 2020 through April 2021 is upheld.

Dated: February 17, 2022

SIGNED
Kathleen A. Frederick
Administrative Law Judge

¹⁸ See Exh. 8.

¹⁹ 203 P. 3d 1155, 1164(Alaska 2009)

Adoption

The undersigned, by delegation from 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 9th day of March, 2022.

By: SIGNED

Name: Jillian Gellings

Title: Project Analyst, DHSS

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