

January 30, 2023

Ombudsman Statement on Complaints about Division of Public Assistance Backlog Complaints

The Alaska State Ombudsman can no longer investigate complaints about the Department of Health Division of Public Assistance (DPA) that allege a delay in review, processing, or determination of Food Stamp (SNAP) cases, or complaints alleging that the Division’s Virtual Call Center (VCC) does not provide a realistic means of communicating with the Division. This is because state law and regulation clearly exclude matters subject to a judicial process from ombudsman review.

[AS 24.55.110\(1\)](#) states that the Ombudsman should decline a complaint for which there is “available an adequate remedy for the grievance stated in the complaint.” [AS 24.55.330\(2\)](#) removes the decisions and actions of judges from ombudsman jurisdiction. State regulation [21 AAC 25.060\(a\)\(2\)](#) requires the Ombudsman to decline to investigate a complaint when “the merits of the complaint are the subject of a judicial proceeding pending at the time the ombudsman receives the complaint.”

The purpose of these limitations on the Ombudsman’s authority is to preserve the independence and credibility of the office. Ombudsman decisions are not subject to appeal or judicial review (except to determine if they comply with the Ombudsman Act) ([AS 24.55.240](#)). Therefore, to ensure the separation and balance of powers, judicial decisions are not subject to ombudsman review. The Ombudsman’s access to records and information is extremely broad and includes confidential government records ([AS 24.55.160](#)). It is not uncommon for complainants to seek to use the ombudsman complaint process to acquire information that may not be known or available during the discovery process. The Ombudsman cannot be compelled to testify or produce evidence in a judicial process ([AS 24.55.260](#)).

Kamkoff et al. v. Department of Health (3AN-23-04259 CI), filed January 20, 2023, in Anchorage Superior Court, is a class action lawsuit that alleges that the Division:

- “persistently fails to process SNAP applications and issue eligibility determinations within the time frames required by law;”
- “[fails] to ensure that SNAP applicants can file an application on the first day they contact [DPA];”
- “[fails] to provide interpretation and translation services;”
- “directs applications to contact the VCC” but “availability of assistance via the VCC is sporadic and applicants must wait hours to reach a worker, if they are able to speak with one at all;”

- “for rural residents, the interview notice often arrives after the scheduled interview, causing them to miss their interviews through no fault of their own;”
- DPA “does not issue the notice of delayed processing, conferring fair hearing rights, as required by federal law and state policy.”

A class action lawsuit is unique because it draws into the court’s purview the claims of people who are not named as plaintiff and may in fact have no knowledge of the case. A review of the legislative and rulemaking history shows that class action lawsuits were not expressly considered in the development of the ombudsman’s legal authority. However, the legislative intent is very clear – to provide a clear separation between the Ombudsman’s investigative process and the judicial process.

Based on the facts alleged, and six claims for relief in *Kamkoff*, the Ombudsman can no longer investigate complaints about a delayed determination of SNAP benefits or the deficiencies of the Virtual Call Center.

Beginning January 30, 2023, the Ombudsman will decline all complaints or requests for assistance related to SNAP delays or the Virtual Call Center. Intake staff will continue to provide referrals to agencies and resources that can assist the person with their complaint.

For information about the class action suit, contact the Northern Justice Project at (907) 308-3395.

People who have been waiting more than 30 days for a determination of their SNAP eligibility (whether a new application or recertification) can contact Alaska Legal Services Corporation for assistance at 1-888-478-2572 or apply online at <https://www.alsc-law.org/intake/>.

If you need food now, you can find food bank/pantry information below.

[Anchorage/MatSu](#) [Juneau/Southeast](#) [Fairbanks](#) [Other Communities](#)

Kamkoff makes no allegations or claims of relief involving any other program at DPA. Therefore, the Ombudsman can and will continue to investigate complaints about any matter involving:

- ✓ Medicaid
- ✓ Chronic and Acute Medical Assistance (CAMA)
- ✓ Temporary Assistance for Needy Families/Alaska Temporary Assistance Program (TANF/ATAP)
- ✓ Senior Benefits
- ✓ Heating Assistance Program
- ✓ Women, Infants, and Children (WIC) and Family Nutrition Programs
- ✓ Interim Assistance and Adult Public Assistance
- ✓ Child Care Program Office
- ✓ General Relief