

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

In the Matter of)
)
 L D) OAH No. 14-0698-ATP
) Division No.
_____)

DECISION

I. Introduction

L D receives Alaska Temporary Assistance benefits. The Division of Public Assistance (Division) sent her notice that she had received \$408 more in Temporary Assistance benefits than she was entitled to receive, and that she was required to repay that amount. She requested a hearing.

Ms. D's hearing was held on June 2, 2014. She represented herself and testified on her own behalf. Terri Gagne, Public Assistance Analyst with the Division, represented the Division.

Because Ms. D received \$408 more in Temporary Assistance benefits than she should have, regardless of the fact that the overpayment was caused by the division's error, the division's decision requiring repayment is affirmed.

II. Facts

The following facts were established by a preponderance of the evidence.

Ms. D has a two person household, which consists of her and her daughter, who receives SSI benefits. Ms. D was receiving Temporary Assistance benefits and applied to renew those benefits on December 27, 2013.¹ The division approved the renewal application and issued her benefits in the amount of \$821 per month for each of the months of January, February, March and April 2014. The benefit amount of \$821 was based on Ms. D's daughter receiving SSI in the amount of \$269.²

On March 28, 2014, a division eligibility technician reviewed Ms. D's case and determined that the division had inaccurately coded her daughter's full SSI payment, \$269, rather than the need standard of \$175 for an additional child.³

¹ Ex. 2.1.
² Ex. 2.0.
³ Ex. 3.0.

The division then sent Ms. D a notice that she had been overpaid \$102 each month during the months of January 2014 through April 2014, because she was issued \$821 in benefits each month when she should have only received \$719 per month. The total repayment amount is \$408.⁴

Ms. D disagreed with the requirement that she repay the Temporary Assistance benefits, because the overpayment was caused by the division's error. In addition, Ms. D testified that the Temporary Assistance benefits were the only source of income for her household and that having to repay them would be a significant financial hardship. She described, among other things, having past due rent payments and increasing fees for being late every month.

III. Discussion

The issue in this case is whether Ms. D is required to pay back \$408 in Temporary Assistance benefits that were allegedly issued to her in error. The division acknowledged that the alleged overpayment was due to division error.

The Temporary Assistance program provides cash assistance to needy families. The benefit amount is based on the family size and the family income.⁵ A Temporary Assistance household consists of the parent or parents and the dependent children who reside with them. The maximum Temporary Assistance benefit amount a two person Temporary Assistance household consisting of one parent and one dependent child can receive is \$821 per month.⁶ The division originally determined she was entitled to that amount, but in a later review realized that her daughter's SSI payment had been incorrectly coded in the division's computer system. When the correct SSI amount was entered, her benefit amount was determined to be \$719.⁷

On its face, Ms. D was overpaid Temporary Assistance benefits. The maximum she was eligible to receive was \$719 per month, but she received \$821 per month during the months of January through April 2014. Because she was only eligible for \$719 per month in benefits, this was an overpayment of \$102 per month for the four months, a total overpayment of \$408.

Ms. D argued that she should not have to pay back the \$408 in overpaid benefits because the overpayment was caused by the division's error, not hers. She also argued that repayment would be a hardship. With regard to Ms. D's first argument, the regulations are clear, that if

⁴ Ex. 4.0.

⁵ 7 AAC 45.520(a).

⁶ 7 AAC 45.523(a)(1).

⁷ Ex. 3.7.

there is an overpayment of more than \$100 caused by the division's error, the division is still required to pursue collection.⁸ With regard to Ms. D's second argument, hardship is not an available defense to collection.⁹

As a matter of law, Ms. D was overpaid \$408 in Temporary Assistance benefits and is required to repay those benefits to the division, regardless of the fact she was not at fault and the overpayment was caused by the division's error.

IV. Conclusion

The division's decision to seek recovery of the \$408 in Temporary Assistance benefits which were overpaid to Ms. D during January 2014 through April 2014 is affirmed.

DATED this 8th day of August, 2014.

Signed _____

Kay L. Howard

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 19th day of August, 2014.

By: *Signed* _____

Name: Kay L. Howard

Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]

⁸ 7 AAC 45.570(a).

⁹ The division can suspend collection for up to three months if the responsible party is a current Temporary Assistance recipient, and if the repayment would constitute an extreme hardship. However, there is no regulatory provision allowing a forgiveness of the claim, and temporary suspension of collection efforts is completely discretionary with the division. See 7 AAC 45.570(f).