

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

In the Matter of)
)
 N N) OAH No. 16-0610-ATP
) Division No.
 _____)

DECISION

I. Introduction

N N is a former Alaska Temporary Assistance benefit recipient. The Division of Public Assistance (Division) sent her notice that she had received \$898 more in Temporary Assistance benefits than she should have, and required her to repay that amount. The evidence shows that Ms. N notified the Division that she was receiving unemployment benefits. The Division did not act upon the information, which caused Ms. N to receive \$898 in benefits which she should not have. Even though the overpayment was caused by the Division’s error, the Division is required to recover that overpayment. Consequently, the Division’s decision requiring repayment is **AFFIRMED**.

II. Facts

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

Ms. N has a three person household, which consists of her and her two children. Ms. N lost her job in January 2016 and applied for Temporary Assistance on January 29. She notified the Division that she was applying for unemployment benefits. Her application was approved beginning with the month of February.¹ She began receiving unemployment benefits on February 7 in the amount of \$418 per week. She notified the Division about her unemployment benefits.² The Division, however, did not act upon her notification until after it had issued her \$898 in benefits for April.³ It calculated that she was not financially eligible for benefits in April and closed her Temporary Assistance case.⁴ The Division subsequently notified Ms. N that she

¹ Testimony of N N; Exs. 2 – 2.18, 3.
² Testimony of N N; Testimony of Sally Dial; Exs. 4.1 – 4.2.
³ Testimony of Sally Dial.
⁴ Ex. 4.

was required to repay the \$898 in benefits which she received in April.⁵ Ms. N requested a hearing to challenge the repayment requirement.

Ms. N's hearing was held on June 17, 2016. She represented herself and testified on her own behalf. Fair Hearing Representative Sally Dial represented and testified on behalf of the Division.

III. Discussion

Ms. N does not dispute that she received \$898 in Temporary Assistance benefits for April when she was financially ineligible for them. The overpayment occurred because the Division did not take prompt action when she notified it she was receiving unemployment benefits. Ms. N argues that she should not have to repay the Division when its error caused the overpayment. However, the overpayment regulation specifically provides that if there is an overpayment of more than \$100 caused by the Division's error, the Division is required to pursue collection.⁶ As a matter of law, Ms. N was overpaid \$898 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 \$898 in Temporary Assistance benefits overpaid to Ms. N in April 2016 is AFFIRMED.

DATED this 21st day of June, 2016.

Signed

Lawrence A. Pederson
Administrative Law Judge

⁵ Exs. 5 – 5.6.

⁶ 7 AAC 45.570.

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 6th day of July, 2016.

By: Signed
Name: Lawrence A. Pederson
Title/Agency: Admin. Law Judge/OAH

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