

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

In the Matter of	)	
	)	
C S	)	OAH No. 16-1042-CCA
_____	)	Agency No.

**DECISION**

**I. Introduction**

The Division of Public Assistance (Division) seeks to recoup Child Care Assistance Program (CCAP) payments totaling \$4,825 that C S received from September 2015 through July 2016. This decision concludes that Ms. S received an overpayment of CCAP benefits, because her combined wage and child support income exceeded the applicable program limit during each of the eleven months at issue. The overpayment occurred because Ms. S did not realize she needed to disclose child support income she received for her 20-year-old daughter, who lives in the home but who is not a family member for CCAP purposes. The Division is entitled to recover the overpayment, consistent with its recoupment authority.

**II. Facts**

C S's household includes herself and her three children: a 20-year-old daughter with disabilities, and two sons, ages 10 and 8.<sup>1</sup> Ms. S applied for CCAP benefits on January 21, 2015.<sup>2</sup> On her application, she disclosed all of her household income, except for the child support payments she received for her then-18-year-old daughter.<sup>3</sup> She did not include this information because the CCAP application indicated that children over the age of 18 were not part of the family for CCAP eligibility purposes.<sup>4</sup> Because Ms. S used each child support payment to pay for her daughter's expenses, she believed that it too was not relevant to the CCAP application.<sup>5</sup>

On July 23, 2015, Ms. S submitted an Eligibility Evaluation form, which indicated that she had no changes to report.<sup>6</sup> On February 2, 2016 she submitted a new CCAP application that

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<sup>1</sup> Exhibits 1, 2. S Exhibit A, pp. 5-20 (9/28/16 submission of bills for services from Hope Community Resources); Testimony of C S.

<sup>2</sup> Exhibit 2-2.4.

<sup>3</sup> *Id.*; Testimony of C S.

<sup>4</sup> See Exhibit 16, pp. 1-2 (sample CCAP application, submitted 9/26/16). See also S Exhibit A, p. 3 (general information page from Ms. S's 2/2/16 CCAP application, submitted 9/28/16).

<sup>5</sup> Testimony of C S; S Exhibit A, pp. 1, 5-20 (expenses for the oldest child's needs).

<sup>6</sup> Exhibit 2.5.

reflected updated wage information.<sup>7</sup> For the same reason she omitted it in prior applications, she did not identify her child support income.<sup>8</sup> On July 18, 2016, Ms. S submitted another Eligibility Evaluation, again indicating that she had no changes to report.<sup>9</sup>

On August 2, 2016, the Division processed Ms. S’s Eligibility Evaluation. It checked a database maintained by the Alaska Child Support Services Division, and it learned of the child support payments.<sup>10</sup> The database showed that Ms. S received the following child support amounts from September 2015 through July 2016:

<u>Month</u>	<u>Total Child Support Received<sup>11</sup></u>
September 2015	\$1,158.00
October 2015	\$772.00
November 2015	\$772.00
December 2015	\$772.00
January 2016	\$772.00
February 2016	\$772.00
March 2016	\$1,158.00
April 2016	\$772.00
May 2016	\$1,167.00
June 2016	\$772.00
July 2016	\$772.00

The Division recalculated Ms. S’s CCAP benefits based on total household income that included her wages and her child support receipts. Ms. S does not disagree with the calculation of her average monthly wages, which the program determined were \$4,217 per month from September 2015 through February 2016, and \$4,524 per month from March through July 2016.<sup>12</sup> The Division then added the monthly child support payments listed above to each month’s wages.<sup>13</sup> For each month from September 2015 through July 2016, the Division found that the total household income exceeds the upper CCAP eligibility limit for a household of four.<sup>14</sup>

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<sup>7</sup> Exhibit 2.6 - 2.10.

<sup>8</sup> Testimony of C S.

<sup>9</sup> Exhibit 3.

<sup>10</sup> Exhibit 3.2; Testimony of Sally Dial; Exhibit 7 - 7.1.

<sup>11</sup> Exhibit 7 - 7.1.

<sup>12</sup> Exhibit 5.1; *see also* Exhibit 3.2.

<sup>13</sup> In its recoupment letter, the Division relied on average child support receipts from two different time periods. It assumed an average monthly support payment of \$900 for September 2015 through February 2016, and \$836 per month for March through July 2016. Exhibit 5.1. A simpler calculation looks to each month’s child support amount and adds that to the corresponding month’s wage income. *See* Division Position Statement, p. 3. Ms. S’s household income exceeded the CCAP income limit under both calculation methods. Testimony of Sally Dial. *See also* Position Statement, p. 3 (calculations); Exhibit 5.1.

<sup>14</sup> The Division’s denial and recoupment letters are based on a household of four. Exhibits 4.1, 5.1. At the hearing, the Division clarified that it should have referenced a household of three, because the adult child is not a

The Division denied Ms. S's July 18, 2016 renewal application.<sup>15</sup> In addition, on August 15, 2016, it requested that she repay benefits totaling \$4,825, which she had received for September 2015 through July 2016, when she was not eligible for any CCAP payments.<sup>16</sup> The notice advised Ms. S that, if she did not establish a payment plan within 30 days, she could be ineligible for future participation in the CCAP, and the Division may seek to garnish her wages or Permanent Fund Dividends to repay the funds.<sup>17</sup>

Ms. S requested a hearing.<sup>18</sup> The hearing took place on September 26, 2016. Ms. S appeared in person, represented herself, and testified on her own behalf. Sally Dial appeared telephonically, represented the Division, and testified on the Division's behalf. The record remained open after the hearing for additional evidence and argument. It closed on September 30, 2016. All submitted documents were admitted.

### **III. Discussion**

#### **A. *The Child Care Assistance Program***

The Child Care Assistance Program is established by statute and implemented pursuant to CCAP regulations.<sup>19</sup> The program is intended to assist in providing day care for the children of low and moderate income families.<sup>20</sup> Qualifying parents or guardians select a participating day care facility for their children, and the program pays benefits to the care provider.<sup>21</sup>

A family's eligibility for CCAP benefits is determined based on (1) the income of the family, including "salary, alimony, child support, retirement benefits, social security, and any other source of income;" (2) the number of children in the family; and (3) whether there is one parent or guardian solely responsible for the care of the family.<sup>22</sup> The Division publishes a Family Income and Contribution Schedule that outlines the maximum monthly income a household may receive and still qualify for CCAP benefits.<sup>23</sup> For a household of three, the gross income limit is \$4,524 per month. For a household of four, it is \$4,614.<sup>24</sup>

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family member for CCAP purposes. Testimony of Sally Dial. Ms. S's total income exceeded the eligibility limit for a household of three or four, so this clarification does not change the analysis or the outcome of the case.

<sup>15</sup> Exhibit 4.1.

<sup>16</sup> Exhibit 5 - 5.2.

<sup>17</sup> *Id.*

<sup>18</sup> Exhibit 6 - 6.1.

<sup>19</sup> See AS 47.25.001 – 47.25.095; 7 AAC 41.010 - 7 AAC 41.990.

<sup>20</sup> AS 47.25.001(a)(1).

<sup>21</sup> AS 47.25.051; Exhibit 16, p. 2 (CCAP General Program Information, submitted to record 9/26/16).

<sup>22</sup> AS 47.25.031.

<sup>23</sup> 7 AAC 41.335. The Family Income and Contribution Schedule is in the record at Exhibit 13.

<sup>24</sup> Exhibit 13.

## **B. Income Calculation**

Ms. S does not dispute the wage information or child support amounts that the Division used to recalculate her total income. She argues that she was not required to disclose income she received on behalf of her oldest child, and the Division should not include it in her total income calculation, since the Division specifically indicated that adult children are not to be considered as part of the family for purposes of CCAP eligibility. Ms. S also asserts that she uses all the child support to pay for her daughter's expenses, so it is not income to her.

On the first issue, Alaska Statute 47.25.031(1) specifically identifies child support as a component of family income for CCAP eligibility purposes. The CCAP regulation for determining family income also lists child support payments as a type of unearned income.<sup>25</sup> The CCAP policy manual further specifies: "All child support payments received, both current and arrearage, [are] considered unearned income if payment is a cash contribution made directly to the family member or by way of a third party i.e. CSSD."<sup>26</sup> For this reason, the CCAP application includes questions about an applicant's sources of unearned income, including child support.<sup>27</sup>

Ms. S's confusion about this question may be understandable, however, since she receives child support on behalf of an adult child who the CCAP expressly excludes as a family member.<sup>28</sup> Nonetheless, applicable CCAP statutes and regulations do not distinguish between child support for minor children and that received for adult children. Therefore, all child support receipts count as unearned income under the provisions discussed above.<sup>29</sup>

Because Ms. S uses all her child support income to help pay for her oldest child's expenses, it is also understandable that she might not think of those receipts as income to her. She credibly testified that she uses all that support for her daughter's needs, and she submitted evidence of some expenses.<sup>30</sup> Nonetheless, regardless how the child support payments are spent, the CCAP counts them as income to her, not to her daughter.

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<sup>25</sup> 7 AAC 41.325(a)(1)(C)(iv).

<sup>26</sup> Exhibit 14.2 - 14.3 (Child Care Assistance Program Manual, section 310, pp. 4-5).

<sup>27</sup> See Exhibits 2.2, 2.9.

<sup>28</sup> 7 AAC 41.013. See also Exhibit 16 (sample CCAP application and general program information); S Exhibit A, pp. 2-3 (February 2016 CCAP application cover sheet and program information).

<sup>29</sup> Where, as here, the receipts for an adult child are included, basic fairness would allow the applicant the corresponding benefit of the larger household size, to account for the additional expenses incurred to help support that person.

<sup>30</sup> S Exhibit A, pp. 5-20.

Since child support receipts are a source of unearned income, the Division must include them in its calculation of total household income. For each month at issue in this case, Ms. S's total income ranged between \$4,898 and \$5,690.<sup>31</sup> This exceeds the CCAP program maximum for a household of three or a household of four.

#### **IV. Conclusion**

For purposes of CCAP eligibility, child support receipts count as income to the applicant, even if the support is paid on behalf of an adult child who the CCAP excludes as a family member. When Ms. S's child support payments are added to her wage income, she exceeded the program's income limit, for a household of three or a household of four, in each of the eleven months at issue in this case. As a result, the Division properly denied her July 2016 renewal application. Further, the Division met its burden to show that Ms. S received program benefits totaling \$4,825 for September 2015 through July 2016, when she was not financially eligible for any benefits. The Division may seek repayment of overpaid benefits.

The Division's decision is affirmed.

DATED: October 27, 2016.

By: Signed  
Kathryn Swiderski  
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 15<sup>th</sup> day of May, 2016.

By: Signed  
Signature  
Douglas Jones  
Name  
Medicaid Program Integrity Manager  
Title

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

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<sup>31</sup> See Exhibit 4; Exhibit 5; see also Division Position Statement, p. 3.