

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

In the Matter of)
)
 B G)
_____)

OAH No. 14-0468-CMB
DPA Case No.

DECISION

I. Introduction

B G sought recertification of her eligibility to receive Food Stamps and Alaska Temporary Assistance Program (ATAP) benefits. Her request was granted. Sometime later, the Division of Public Assistance (division) determined that Ms. G received these benefits in error because her household's monthly income exceeded the maximum allowable income for a household of four seeking to participate in these programs. The division informed Ms. G that she was required to repay any benefit received in error. As is her right, Ms. G requested a hearing. Prior to the hearing, the division conceded regarding the Food Stamp overpayment issue, leaving as the only issue for hearing recoupment of the alleged \$903 ATAP benefits received for February 2014.

A hearing was held April 16, 2014. Ms. G participated by telephone, as did the division representative, Jeff Miller. Because the division correctly determined the household income, and that income is in excess of the household limit, 7 AAC 45.570(a) requires the division pursue collection of the overpayment.

II. Facts¹

Ms. G was receiving ATAP benefits. Living in her household was her daughter E, and her boyfriend, A C. In January Ms. G and Mr. C had a son, A. Because Mr. C is the biological father of A, the ATAP program considered him a mandatory household member. As a mandatory household member, his income and resources are considered when determining household eligibility.

Mr. C's actual monthly gross income for February was \$3,134. There was no other income to be counted; the household had no other income. The program's gross income

¹ The facts are taken from the exhibits to the Agency's Fair Hearing Position Statement and the testimony received at hearing.

limit for a household of four is \$2,893. However, the division did not catch the error until after Ms. G received the \$903 in ATAP benefits.

Ms. G agrees that the household is over-income. E's father is not paying his share of child support, so Mr. C is supporting E. Ms. G asks that this be considered.

III. Discussion

The ATAP regulations are precise and direct regarding what can and cannot be included or deducted for purposes of determining a household's income. Mr. C's willingness to support E when her father does not is commendable. However, it is not a factor that can be considered when determining eligibility for ATAP benefits.

ATAP focuses on household size. Members of a household are determined by regulation.² Regardless of who pays for the support of E, the household size is four (two children, once caretaker adult, and one who is working). The gross income limit for a family of four is \$2,893.³ Ms. G's gross household income for February 2014 was \$3,134. It is undisputed that Ms. G's household income for the month of February exceeded program limits. Therefore, Ms. G received \$903 in ATAP benefits for which she was not eligible.

The division's regulation 7 AAC 45.570 provides direction on collection of overpayments. It directs the division to pursue collection of the overpayment, regardless of the amount or cause of the overpayment.⁴ The regulation provides no discretion on pursuing the overpayment, but it does provide several options for repayment.

IV. Conclusion

Ms. G received an overpayment in the amount of \$903 for the month of February 2014 because her household income exceeded program limits. She received benefits for which she was not eligible. Under 7 AAC 45.570(a), the division has no discretion but to pursue collection.

DATED this 23rd day of April, 2014.

By: Signed _____
Rebecca L. Pauli
Administrative Law Judge

² In the regulations, countable members of a household are referred to as mandatory filing units. 7 AAC 45.195. "To the extent possible, the department will include in one ATAP payment all related individuals who are eligible for ATAP benefits and who reside together." 7 AAC 45.190.

³ Exh. 7.1

⁴ 7 AAC 45.570(a). There is an exception for overpayments less than \$100 caused by division. The amount at issue is over \$900.

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 7th day of May, 2014.

By: Signed _____
Name: Rebecca L. Pauli
Title: Administrative Law Judge

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