

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

In the Matter of)
)
F H) OAH No. 19-0074-APA
) Agency No. 05490500
_____)

DECISION

I. Introduction

F H and her husband C J, reside together. They each receive Adult Public Assistance (APA) benefits. They submitted a renewal application for those benefits on December 3, 2018. The Division of Public Assistance (Division) processed that application and determined, based upon an increase in their Social Security benefits, that Ms. H’s monthly APA amount would decrease to \$10 beginning in January 2019.

Ms. H appealed the decrease in her monthly APA payment. Her hearing was held on February 12, 2019. Mr. J, who is Ms. H’s authorized representative, represented her at the hearing and testified on her behalf. Ms. H did not participate in the hearing. Sally Dial, a Fair Hearing Representative employed by the Division, represented the Division.

Ms. H has challenged the Division’s calculation of her APA benefit based upon the Division’s determination that Ms. H and Mr. J are a married couple, where both are eligible for APA benefits in prior cases. Because this issue was fully resolved against Ms. H in a prior case, the decision in that case is dispositive of this case under the legal doctrine of collateral estoppel. Accordingly, the Division’s reduction of Ms. H’s monthly APA amount effective January 2019 is AFFIRMED.

II. Facts

Ms. H and Mr. J are a married couple who reside together in their own home. Ms. H has been determined to be disabled under federal Social Security Supplemental Security Income (SSI) rules and receives SSI benefits. Mr. J has been determined to be disabled under federal Social Security Disability Income (SSDI) rules and received SSDI benefits. Both Ms. H and Mr. J are eligible for APA benefits by virtue of their federal disability status.

Ms. H and Mr. J applied to renew their APA benefits on December 3, 2018.¹ While processing that application, the Division determined that Ms. H’s SSI benefit amount and Mr. J’s

¹ Exs. 2.1 – 2.8.

SSDI benefit amount would each increase effective January 2019, which caused their joint monthly social security income to increase from \$1,638 to \$1,684. Based upon that increase in their joint income, the Division reduced Ms. H's APA benefit amount from \$17 to \$10.²

III. Discussion

APA benefits are provided to individuals who are aged or disabled, in addition to other criteria.³ Disability is determined according to social security criteria.⁴ APA benefits are calculated depending upon a recipient's living situation. In the case of a married couple who reside together, a recipient's eligibility for APA benefit and the monthly benefit amount is calculated based upon their joint income.⁵ This also applies to a couple, where both are eligible for APA benefits.⁶

Ms. H did not disagree with the income amounts used by the Division. Instead, she argued that her APA benefits should be based solely upon her income because she is an "eligible individual" under social security regulations, and that Mr. J's income should not be counted in determining her APA benefits regardless of the fact that they are a married couple who reside together.

Ms. H has made the argument that her benefits should be based solely upon her income, and not upon her and her husband's joint income, twice previously: in 2011 and in 2017. In each of those prior cases, the Division's action determining her APA benefits based upon her and her husband's joint income was upheld.⁷ Neither of those decisions were appealed. The 2017 case raised the same legal theory as this case, that because Ms. H receives SSI and Mr. J receives SSDI, that she is "an eligible individual" for SSI purposes and his income should not be imputed to her. This issue was squarely dealt with and decided against Ms. H in the 2017 case and was not appealed.⁸

There is a legal doctrine known as collateral estoppel. Collateral estoppel "generally prevents the relitigation of an issue previous adjudicated."⁹ In order for collateral estoppel to

² Exs. 2.9 – 3.

³ 7 AAC 40.120.

⁴ 7 AAC 40.170.

⁵ 7 AAC 40.230 – 240.

⁶ 7 AAC 40.310; 7 AAC 40.370.

⁷ Department of Health and Social Services Office of Hearings and Appeals Case No. 11-FH-503 (OHA 2012); Office of Administrative Hearings Case No. 17-1328-APA (OAH 2018).

⁸ This decision, in redacted format, is available online at <https://aws.state.ak.us/OAH/Decision/Display?rec=325>.

⁹ *Harrod v. State, Dept. of Revenue* 255 P.3d 991, 999 (Alaska 2011).

apply, three elements must be present: the party to the present action must be the same as, or in privity with, the party to the previous action; the issue must be identical to that decided in the previous action; and the prior action must have been a final judgment on the merits.¹⁰ Collateral estoppel also applies to administrative hearing decisions.¹¹

The three elements necessary to establish collateral estoppel are satisfied. First, Ms. H was the party in the 2017 case. Second, Ms. H is asserting the same legal issue. Third, the 2017 decision was a final administrative decision that Ms. H did not appeal. Consequently, this case is subject to collateral estoppel. Ms. H cannot relitigate the same issues she raised in 2017. Consistent with the decision in the 2017 case, the Division's determination that her husband's income must be included when calculating Ms. H's APA benefit amount is upheld.

IV. Conclusion

The reduction of Ms. H's monthly APA benefit payment based upon the increase in her SSI and her husband's SSDI payments is upheld.

Dated: March 20, 2019

By: Signed
Signature
Lawrence A. Pederson
Name
Administrative Law Judge
Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

¹⁰ *Harrod* at 999 – 1000.

¹¹ *Harrod* at 1001.