

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

In the Matter of)	
)	
U Q)	OAH No. 18-0675-APA
_____)	Agency No. 0554977

DECISION

I. Introduction

The Division of Public Assistance (Division) issued a notice to U Q, informing him that he had been issued \$1930 in Adult Public Assistance (APA) benefits that he was not entitled to receive, and that he was required to repay the overpaid benefits. Mr. Q requested an administrative hearing to contest the notice of overpayment. The hearing was held on August 23, 2018. Mr. Q represented himself and testified on his own behalf. Jeff Miller represented the Division and presented testimony in support of the Division’s case.

Because the Division established that Mr. Q’s benefits had been overpaid, the Division’s decision requiring repayment is **AFFIRMED**.

II. Facts

Mr. Q and his wife were recipients of Adult Public Assistance as a “couple’s case;” they received a minimal amount of benefits (\$1 per month), which enabled them to maintain their Medicaid eligibility.¹ At that time Mr. and Mrs. Q had gross income in the amount of \$1,997 per month, consisting of Mr. Q’s and Mrs. Q’s combined Social Security benefits. Unfortunately, Mrs. Q passed away on October 3, 2017. When the Division received notice of her passing on October 10, 2017, it removed her \$1,266 Social Security benefit from its calculation of the household income, which resulted in Mr. Q being eligible for \$362 in APA benefits, beginning in November 2017.²

In late April 2018, the Division processed Mr. Q’s March 30, 2018 renewal application for APA benefits. During this processing, the Division learned that Mr. Q’s Social Security benefit amount had gone up from \$731 to \$1266 per month on October 20, 2017, and then to \$1291 per month on December 20, 2017, continuing at that amount to the present date.³ In essence, what happened is that Mr. Q’s

¹ Miller testimony.
² Exh. 1.3.
³ Exh. 3. Mr. Q had not reported this increase in his income to the Division, as required by Division regulations; the Division, however, did not assert that this was an intentional omission by Mr. Q or otherwise accuse him of any wrongdoing. Miller testimony; Exh. 16.

Social Security benefit was replaced with his wife’s greater Social Security benefit.⁴ However, the resultant increase in Mr. Q’s income meant that he was only eligible for \$1 per month in APA benefits for the months of January through May 2018. He had received \$1,935 in APA benefits during those months, but had been eligible to receive only \$5 in benefits; thus the overpayment amount was \$1,930.⁵

The Division sent Mr. Q a notice of its overpayment claim on May 23, 2018, seeking recoupment of \$1,930.⁶ Mr. Q then requested an administrative hearing.

III. Discussion

APA benefit eligibility is determined monthly based on the household’s total monthly countable income.⁷ Mr. Q did not dispute that he received the above-noted increase in income based on his increased Social Security benefit, after his wife passed away. Rather, Mr. Q disputed whether he had actually received the overpaid APA benefits themselves. When the hearing was first convened on August 9, 2018, Mr. Q stated that he had previously requested copies of the APA benefit checks or other proof of the payments from a Division employee, but he had never received them. Mr. Miller agreed to provide copies of the payments, and the hearing was rescheduled to August 23, 2018.

On August 14, 2018, Mr. Miller sent Mr. Q proof of the APA payments in the form of a “benefit history screen” from the Division’s database system, as well as copies of the State Treasury warrants for each of the five payments.⁸ These documents demonstrated that the APA benefits were in fact paid to Mr. Q in the amounts originally described by the Division.

The Division is authorized under its regulations to pursue repayment from an APA recipient who has received an overpayment of benefits.⁹ Other than questioning whether he had actually received the overpaid APA benefits in question, Mr. Q did not dispute the Division’s calculations nor did he contend that the Division was not authorized to pursue repayment. He did argue that because his monthly income is so low, the Division’s demand for repayment poses a severe burden on him. In this context, Mr. Miller pointed out that outside of the fair hearing process, the Division can set up a payment plan for a recipient to minimize the impact of the repayment process. Mr. Q was encouraged to contact the Division’s claims office after the hearing to arrange a payment plan that might help to ease the burden of the repayment process.

⁴ Q testimony.
⁵ Exh. 4.10.
⁶ Exh. 4.
⁷ Exh. 21-21.1.
⁸ Exhs. 23-23.6.
⁹ 7 AAC 40.480.

IV. Conclusion

The Division’s regulations authorize it to recoup overpaid APA benefits. Because the Division established that Mr. Q received \$1,930 in APA benefits that he was not entitled to receive, the Division’s repayment claim is affirmed.

Dated: October 2, 2018

By: Signed
Signature
Andrew M. Lebo
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.]

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 1st day of November, 2018.

By: Signed
Signature
Deborah Erickson
Name
Project Coordinator, Office of the Commissioner
Title

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