

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

In the Matter of)	
)	
O G)	OAH No. 19-0667-ATP
_____)	Agency No.

DECISION

I. Introduction

O G was receiving Alaska Temporary Assistance (Temporary Assistance) payments for her two minor children. The Division of Public Assistance (Division) determined that she received some of those payments for times when the children were not residing with her. The Division then notified her that she was required to reimburse the Division for those payments, in the total amount of \$1,662. Ms. G disagreed and requested a hearing.

Ms. G’ hearing was held on August 26, 2019. Ms. G appeared telephonically and represented herself. Sally Dial, a Fair Hearing representative for the Division, represented the Division.

The undisputed evidence shows that Ms. G’ two minor children were removed from Ms. G’ home by the Office of Children’s Services (OCS) in mid-April 2019 and were not in her home during May through July of 2019. However, Ms. G still received Temporary Assistance payments for the care of her children during those three months, in the total amount of \$1,662. Although Ms. G maintains that OCS wrongfully took her children, the fact that the children were no longer residing in her home, regardless of the cause, meant that Ms. G was not eligible to receive Temporary Assistance payments for their care during May through July of 2019. As a result, she is required to reimburse the Division for those Temporary Assistance payments. Accordingly, the Division’s requirement that she repay it \$1,662 is upheld.

II. Facts

Ms. G had two minor children in her home and was receiving a monthly Temporary Assistance payment for their care in April 2019. That payment amount was \$554 per month. OCS removed the children from her home on April 18, 2019.¹ The Division paid Ms. G her Temporary Assistance monthly payment of \$554 during each of the months of May, June, and

¹ Ex. 2.3.

July 2019 for a total of \$1,662. In July 2019, the Division determined that the children were no longer in Ms. G' home and terminated her Temporary Assistance payments.² As of the date of hearing, August 26, 2019, the children continued to be in OCS custody and were not residing with Ms. G.³

III. Discussion

The Temporary Assistance program provides cash assistance to needy families. A Temporary Assistance household consists of the caretaker relative(s), which can be the parents or closely related relatives, and the dependent children who reside with them.⁴ In order to be eligible for Temporary Assistance benefits, in addition to other factors, there must be a dependent child residing in the caretaker relative's home: "[t]he applicant must be a pregnant woman or an individual who has physical custody of the dependent child or children."⁵ Consequently, if there is no dependent child in the household, the household is not eligible for Temporary Assistance.⁶

It is undisputed that Ms. G' children were removed from her home on April 18, 2019 and, as of the date of the hearing in this case, had not been returned to her. As a purely legal matter, Ms. G' household was no longer eligible for Temporary Assistance payments when the children left the home. Although Ms. G argued that the removal of her children was without justification and was illegal, it does not change the fact that the children left the home and as a result, the household's eligibility for Temporary Assistance stopped when the children left it.

It is also undisputed the Ms. G received Temporary Assistance payments totaling \$1,662 during the months of May, June, and July 2019, when there were no children residing in her home. Due to the absence of the children, she should not have received those payments. The Temporary Assistance regulations require that the Division seek repayment of overpaid benefits.⁷ As a result, Ms. G is responsible for repaying the Division \$1,662 for the improperly paid Temporary Assistance benefits.

² Exs. 2 – 2.3, 3.

³ Ms. G' testimony.

⁴ See 7 AAC 45.195, 7 AAC 45.225, 7 AAC 45.335, 7 AAC 45.990(a)(13); AS 47.27.900(9).

⁵ AS 47.27.020(a).

⁶ Pregnancy was not an issue in this case.

⁷ 7 AAC 45.570(a).

IV. Conclusion

The Division's decision that Ms. G reimburse it \$1,662 for overpaid Temporary Assistance benefits is upheld.

Dated: September 26, 2019

Signed _____

Lawrence A. Pederson
Administrative Law Judge

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 10th day of October, 2019.

By: *Signed* _____

Name: Lawrence A. Pederson

Title: Administrative Law Judge

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