

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

In the Matter of )  
 )  
J W ) OAH No. 19-0567-PFE  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

J W is a former Child Care Assistance (CCA) recipient. The Division of Public Assistance (Division) notified her that her 2019 Permanent Fund Dividend (PFD) would be garnished to repay the Division for CCA benefits that Ms. W had received in error.

Ms. W requested a hearing to challenge the garnishment of her 2019 PFD. That hearing was held on July 10, 2019. Ms. W represented herself and testified on her own behalf. Sally Dial, a Fair Hearing Representative with the Division, represented the Division.

The evidence presented at hearing showed that Ms. W has an unsatisfied repayment obligation to the Division for overpaid CCA benefits. As a result, the Division's garnishment of her 2019 PFD in the amount of \$3,173 is affirmed.

**II. Facts<sup>1</sup>**

Ms. W received CCA benefits in 2016 and 2017. In June 2017, the Division notified Ms. W that she had been overpaid CCA benefits in the amount of \$3,173. That overpayment notice resulted in a 2018 PFD garnishment case, wherein the Division ended up withdrawing the 2017 CCA repayment notice due to a procedural error. That withdrawal resulted in an agreed upon dismissal of the 2018 PFD garnishment case. As part of the dismissal of the 2018 PFD garnishment case, Ms. W was notified that DPA would be reissuing its CCA repayment notice.<sup>2</sup>

On June 8, 2018, the Division reissued its CCA repayment notice. It notified Ms. W that she received \$3,173 in CCA benefits that she should not have, and that she was required to repay those benefits to the Division. That notice informed Ms. W that she had 30 days from the date of that notice to request a hearing to challenge the repayment requirement and that her PFD could

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<sup>1</sup> Unless otherwise provided, these factual findings are based upon Ms. W's sworn testimony and her statements made at the July 10, 2019 hearing.

<sup>2</sup> See OAH Case No. 18-0588-PFE.

be garnished to satisfy the overpayment.<sup>3</sup> It is undisputed that Ms. W did not request a hearing to challenge the Division's repayment demand.<sup>4</sup>

On June 4, 2019, the Division notified Ms. W that her 2019 PFD would be garnished to pay the \$3,173 in overpaid CCA benefits.<sup>5</sup> Although Ms. W requested a hearing,<sup>6</sup> at hearing she did not challenge her repayment obligation.

### **III. Discussion**

The Division is authorized to recover overpayments from public assistance recipients.<sup>7</sup> The PFD of a former recipient may be garnished to satisfy the balance due on an public assistance overpayment claim.<sup>8</sup> In 2018, Ms. W was notified of the Division's position that she had received an overpayment of CCA benefits. She was told at the time that her PFD could be garnished and that she had the right to contest the Division's repayment demand by requesting a hearing. It is undisputed that Ms. W did not appeal from the Division's CCA benefit repayment requirement by requesting a hearing. As a result, the Division's repayment demand became a final decision.<sup>9</sup>

Ms. W was subsequently notified of the Division's decision to garnish her PFD and that she had the right to appeal that decision. Although Ms. W requested a hearing to challenge the garnishment of her PFD, at hearing she did not challenge her repayment obligation, or the Division's ability to garnish her PFD. As a result, the Division has satisfied its procedural requirements, and is entitled to garnish her PFD to satisfy her repayment obligation for the overpaid CCA benefits.<sup>10</sup>

As discussed at hearing, Ms. W may enter into a repayment agreement with the Division in lieu of garnishment. However, if she does not, the Division may enforce this decision by garnishing her PFD.

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<sup>3</sup> Exs. 2 – 2.3.

<sup>4</sup> Ms. W stated that she was not going to dispute the Division's case.

<sup>5</sup> Exs. 3 – 3.1. The Division is advised that its garnishment notice refers to AS 43.23.068. That statute was renumbered as AS 43.23.170 effective October 17, 2018.

<sup>6</sup> Ex. 4.

<sup>7</sup> AS 47.05.080(a).

<sup>8</sup> AS 47.05.080(b).

<sup>9</sup> 7 AAC 49.030(a).

<sup>10</sup> See AS 47.23.170(b).

#### IV. Conclusion

Ms. W was notified of her CCA repayment requirement in 2018. That repayment requirement was not appealed, so it became a binding decision. Because the CCA overpayment has not yet been repaid, the Division may garnish Ms. W's 2019 PFD.

Dated: July 25, 2019

*Signed*  
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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 19<sup>th</sup> day of August, 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.]