

Ms. G requested a hearing on the repayment issue on January 23, 2019.⁷ Ms. G requested a hearing because “I didn’t know I had to cut E G off because she is still in high school. And no one told me she had to be cut off.”⁸ [sic]

A hearing took place February 28, 2019. Ms. Dial, on behalf of the Division, and Ms. G each appeared telephonically.⁹

III. Discussion

ATAP is a program created by the Alaska Statutes to implement the federal Temporary Aid to Needy Families (TANF) program.¹⁰ The program provides cash assistance and work services to low income families with dependent children.¹¹

A. E ceased being a dependent when she turned 19.

At the hearing, Ms. G agreed her household had received \$554.00 per month from August 1, 2018 to January 1, 2019. However, she challenged whether E stopped being a dependent once she turned 19, because E was still enrolled in high school.

A dependent child is defined as an individual who has not yet attained 18 years of age or has not yet attained “19 years of age and is a full-time student in a secondary school.”¹² It is undisputed E G turned 19 on July 7, 2018. It is undisputed E G is enrolled in high school and scheduled to graduate in May 2019. However, because E “attained” age 19 on July 7, 2018, even though she is still enrolled in high school, she ceased being Ms. G’s dependent on July 7, 2019.

B. Ms. G received ATAP overpayments from August 1, 2018 to January 1, 2019.

An ATAP recipient is not eligible if they do not have a dependent child.¹³ Since E ceased being a dependent on July 7, 2018, Ms. G ceased being eligible for ATAP July 31, 2018.¹⁴ Yet, as stated above, Ms. G continued to receive ATAP payments until January 1, 2019.¹⁵ Because she was not eligible after August 1, 2018, these payments to Ms. G are overpayments.

⁷ Exhibit 4.

⁸ Exhibit 4; Ms. G testimony.

⁹ The Division’s position statement and Exhibits 1-7.2 were admitted without objection.

¹⁰ See A.S.47.05.010(1); A.S.47.27.005 – A.S.47.27.990. The Alaska Temporary Assistance Program’s regulations are set forth at 7 AAC 45.149 – 7 AAC 45.990.

¹¹ AS 47.27.010.

¹² AS 47.27.900(9)(A)(ii).

¹³ AS 47.27.010.

¹⁴ Exhibit 3. Because E was a dependent on July 1, 2018, Ms. G was entitled to ATAP on July 1, 2018 according to Ms. Dial’s testimony.

¹⁵ Exhibit 2.1; Ms. Dial testimony; Ms. G testimony.

C. The Division must pursue repayment of overpayments that exceed \$100.00.

Ms. G argued that even if E ceased being a dependent, she disagreed with the requirement to pay back the overpayment because no one told her she had become ineligible. Ms. Dial agreed the overpayment was the Division's error because it did not stop payment earlier.¹⁶ The Division, however, is required to "pursue collection from a current recipient of ATAP benefits . . . who received an overpayment, regardless of the amount or cause of the overpayment, unless the overpayment was caused by the department, in which case the department will pursue collection only if the overpayment exceeds \$100.00."¹⁷ In this case, the amount of the overpayment is \$3,324.00.¹⁸ So, the Division must seek recovery of the \$3,324.00 in overpayments made to Ms. G, even though the Division erred by failing to stop the benefit on the date that Ms. G became ineligible.

Ms. G expressed concern about repayment because of her financial situation. Even though Ms. G is required repay the overpayment, the Division may suspend collection of overpaid ATAP benefits for up to three months "upon receipt of evidence that the loss of assistance would result in extreme economic hardship to the assistance unit."¹⁹

IV. Conclusion

In cases, like this one, involving overpayments in excess of \$100.00, collection must be attempted regardless of fault. The Division's decision to seek recovery of the \$3,324.00 in ATAP benefits is therefore affirmed.

Dated March 8, 2019

Signed _____
Hanna Sebold
Administrative Law Judge

¹⁶ Ms. Dial testimony.
¹⁷ 7 AAC 45.570(a).
¹⁸ Exhibit 2.1; Exhibit 3.1- 3.4.
¹⁹ 7 AAC 45.570(f).

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 8th day of April, 2019.

By: Signed
Name: Cheryl Mandala
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.]