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

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| G. K. | ) | OAH No. 25-2635-PFE |
| | ) | |
| 2025 Permanent Fund Dividend | ) | |

# DECISION

## I. Introduction

The Division of Public Benefits (Division) sought to garnish Mr. G. K.'s 2025 Permanent Fund Dividend (PFD) to recoup a defaulted payment on an established overpayment of public assistance benefits. Mr. K. appealed the garnishment and requested a hearing. The hearing was held October 6, 2025, by teleconference. Mr. K. appeared telephonically from Community A, and testified. He also presented testimony from his fiancée, Ms. U. X.. Marie Thirlwell represented the Division. The Division's exhibits (including a letter from Ms. X.) were admitted without objection from Mr. K.. The record closed at the conclusion of the hearing.[1]

## II. Facts

G. K. is a 39-year-old man who lives in Community A with his fiancée, U. X.. As a youth he suffered a traumatic brain injury that left him unable to read and write. He stated that he has some memory impairment, and his recollections were sometimes imprecise. However, his testimony was reasonable, credible and straightforward.

From the age of 15 years until recently, Tribal Corporation A (TC-A) was his authorized representative (or, as he said, "payee") for his public assistance benefits, permanent fund dividend, social security disability insurance and native corporation dividends. From these funds, TC-A was to pay his child support obligation and other bills. Mr. K. testified he did not receive notices from TC-A regarding possible overpayments or garnishments. According to Mr. K., his funds were entirely managed by K. H., who would

1 Mr. K. requested that a copy of the hearing recording be sent to him. A digital file of the hearing recording will be sent to him with the proposed decision.

give him small sums ("200 to 300 bucks") from time to time. He testified he could not find out why he was "always broke."

Mr. K. testified that he was enrolled in a work readiness program by K. run by TC-A. He received a "credit card" that allowed him to purchase food and work clothing. However, three weeks later he was called into a meeting by the program head, with K., and informed he was not eligible for the program because he was disabled. He was required to pay back the money disbursed to him on a "TC-A credit card." Mr. K. stated that he was upset because K. knew he was disabled but enrolled him anyway. According to Mr. K., she "wrote a check for the $2500 right then" from his funds. After this event, he began trying to find out more about his money.

Mr. K. was incarcerated between November 2023 and March 2024. Before he was incarcerated, he tried to find out how much he owed. During his incarceration, TC-A continued to cash his Social Security checks, although these should not have been cashed, thus establishing another overpayment. Mr. K. testified it took him three months, going from office to office in Anchorage, to withdraw from the arrangement with TC-A. He testified that a lawyer through Village Association A helped him to find out what happened to his money. After Mr. K. succeeded in withdrawing from the arrangement with TC-A, he discovered that the Division of Public Assistance (Division) had established an overpayment of ATAP (Alaska Temporary Assistance Program) and SNAP (food stamp) benefits in 2020 that was not contested by TC-A. In addition, a payment plan had been established so that his Social Security benefits were garnished to pay child support arrearages.

Mr. K. testified that he was not informed of these payment plans until after the fact. Mr. K. testified that, after he ended his incarceration, he talked to someone about setting up a payment plan, for $25 or $30/month but he never got any paperwork about it. It was not clear that he was speaking with the Division's "Benefit Issuance and Recovery Unit" in Juneau to establish another payment plan for the ATAP debt (the SNAP debt has been repaid). He has a payment plan for the overpaid Social Security disability insurance in place. As it is, he testified, he can just cover his rent ($1300/month). He does not understand why he should have to repay debt he did not know he was incurring. For this reason, he is asking that the ATAP debt to the Division be waived[2] instead of having his PFD garnished.

Ms. U. X. testified concisely and credibly. She is Mr. K.'s fiancée, and has lived with him since December of 2022, when TC-A was still receiving his checks. She is Mr. K.' authorized representative for this case. She testified she tries her best to read paperwork and explain it to him. Ms. X. testified that she prepared the letter (submitted as Ex. 6) at Mr. K.' direction. For about four months after he was incarcerated, Ms. X. testified, he had no income because his Social Security disability was still paid to TC-A. Sometime in July 2024, he was able to become his own payee. She testified that the two of them went to the Division's office in 2024 and that they then learned about the ATAP debt. Ms. X. testified that they learned that the overpayment "was on the Division" (i.e., due to Division error). Ms. X. testified that the Division worker told them that TC-A could have appealed to have the debt compromised but TC-A did not seek that relief. She said that she believes that the conversation about reduced payment that Mr. K. spoke about may have been about child support he owes, which was also being taken from his Social Security disability payments. Mr. K. and Ms. X. were able to move into low-income housing in Community B a few weeks ago, which has reduced their rent.

## III. Discussion

When the Division has paid a recipient more Public Assistance benefits than the individual is entitled to receive, the Division is authorized to seek recovery of the overpayment.[3] If the recipient has defaulted on repaying the amount owed, the Division may garnish his or her PFD to satisfy the balance due.[4]

Before it can garnish a PFD, the Division is required to comply with certain procedural safeguards.[5] Among them are rules requiring the Division to certify that: (1) the Division has notified the recipient that his or her future PFDs will be taken to satisfy the overpayment claim; (2) the Division notified the recipient of his or her right to request a hearing on the overpayment claim, allowing 30 days from the date of the notice to request

---

2 Mr. K. used "squamashed" or "squashed" to mean an action by this tribunal that eliminates the debt. For purposes of this order, the term "waived" is used, as the establishment of the overpayment itself is not before this tribunal.

3 AS 47.05.080.

4 AS 47.05.080(b).

5 AS 43.23.170(a).

that hearing; (3) the overpayment claim either was not contested or, if contested, the issue was resolved in the Division's favor; and (4) if the overpayment claim was contested and resolved in the Division's favor, the matter is final - that is, no appeal is pending, the time limit for filing an appeal has expired, or the appeal was resolved in the Division's favor.[6]

The Division's garnishment notice satisfied these requirements.[7] There is no dispute that the Division overpaid ATAP benefits and that the debt was established in 2020. There is no dispute that, as Mr. K.' appointed representative, TC-A received notice of the debt and did not challenge the amount on his behalf. Finally, there is no dispute that for years following, TC-A, as Mr. K.' representative paid the Division from Mr. K.' Social Security disability. The time for filing an appeal of the original overpayment has long passed. Finally, Mr. K. admitted that he did not continue to make payments to the Division, because he didn't have any money after paying rent and because he did not receive the paperwork he was expecting. He believes that TC-A, which did not compromise the debt on his behalf, should be liable rather than himself.

The legal issue of whether, in 2020, TC-A failed to act in Mr. K.' best interests as his representative (or "payee"), knowing Mr. K.' limitations, is not a question before the administrative law judge. TC-A is not a party to this proceeding and there is no jurisdiction over TC-A. Nonetheless, TC-A (or its employee) was Mr. K.' representative at the time, and its failure to seek compromise of the ATAP overpayment in a timely fashion means that Mr. K.' must continue to repay the Division for the ATAP overpayment. Because this is administrative garnishment, the standard statutory rules regarding garnishment do not apply.[8] Thus, although the amount Mr. K. owes dates to 2020, the Division is still entitled to garnish his PFD to satisfy his repayment obligation for the overpaid ATAP benefits.[9]

As discussed in the hearing, Mr. K. may contact the Division's Benefits Issuance and Recovery Unit in Juneau to make a repayment plan, to avoid future garnishment of his PFD. However, because no such plan is in place now, and no payments have been made since March of 2024, the Division is entitled to garnish Mr. K.' 2025 PFD.

---

6 AS 43.23.170(a)(3).
7 Ex. .5.
8 *State, Dep't of Revenue ex rel. Gerke v. Gerke*, 942 P.2d 423 (Alaska 1997).
9 AS 47.23.170(b).

## IV. Conclusion

Mr. K., through his authorized representative, was notified of the overpayment of ATAP benefits in 2020, and the overpayment was not contested nor compromised. That overpayment has not yet been fully repaid, so the Division may garnish Mr. K.' 2025 PFD.

Dated: October 16, 2025

SIGNED
Kristin S Knudsen
Administrative Law Judge

## Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision 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 18th day of November, 2025.

By: SIGNED
Daniel R Phelps II
Process Improvement Manager
Office of the Commissioner
Alaska Department of Health