

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

In the Matter of	)	
	)	
S.Q	)	OAH No. 25-2640-PFE
_____	)	

DECISION

I. Introduction

S.Q appeals the garnishment of her Permanent Fund Dividend (PFD) to recover \$3,145.00 in defaulted overpayments of Alaska Temporary Assistance Program (ATAP) benefits. A hearing on Ms. Q’s garnishment appeal was held on October 16, 2025. Marie Thirlwell appeared telephonically and represented the Division of Public Assistance (Division). Ms. Q did not appear or accept a telephone call for the hearing. The administrative law judge took the Division’s documentary evidence into the record as permitted by AS 44.62.530.

The Division has shown that it is entitled to garnish Ms. Q’s PFD, and its garnishment is upheld.

II. Facts

The following facts were established by a preponderance of evidence in the record.

A final decision was issued on March 6, 2014, by the Office of Administrative Hearings (OAH) in case number 14-0006-ADQ (agency case number 05350360). That decision found that Ms. Q received public assistance overpayments and required her to make restitution.¹ In response to that decision, the Division sent Ms. Q a letter notifying her that it had determined that she had received overpaid benefits in the amount of \$706.00 for food stamp benefits and \$3,600.00 for ATAP benefits for the period of March through October 2013.² The letter further notified Ms. Q that if her repayment became delinquent, the State could garnish her PFD, among other collection measures.³

Ms. Q made payments towards her restitution obligation, including full repayment of the \$706.00 food stamp overpayment.⁴ As of December 2021, however, she still owed \$3,550.00 for the ATAP overpayment. Her last payment was received on August 6, 2014.⁵

¹ Div. Ex. 1-1.5.

² Div. Ex. 3.13.

³ *Id.*

⁴ Div. Ex 3.11.

⁵ *Id.*

On June 28, 2023, the Division notified Ms. Q that she had previously been advised of her overpayment and that her future PFDs could be garnished to satisfy the unpaid balance in agency case number (A).⁶ The letter further informed her that the Division was garnishing her PFD to satisfy that default.⁷ The Division received a garnishment payment of \$405.00 on October 26, 2023, from her PFD, leaving a remaining balance of \$3,145.00.⁸

On June 26, 2025, the Division issued another notice to Ms. Q advising that it intended to garnish her PFD for the remaining \$3,145.00 ATAP overpayments.⁹ Ms. Q filed an appeal on July 24, 2025.¹⁰

A hearing was first held on September 29, 2025. Ms. Q did not appear or take the call, though a voicemail message was left. She contacted OAH several hours later and a new hearing date was scheduled for October 16, 2025. A hearing notice was sent informing Ms. Q that the hearing would proceed in her absence if she again failed to appear. Ms. Q did not appear or respond to the call on that date. Ms. Thirlwell appeared on both occasions by telephone and represented the Division.

III. Discussion

State agencies are required to recover overpaid public assistance benefits, including ATAP benefits.¹¹ Alaska Statute 47.05.080(b) authorizes the Department of Health to garnish a recipient's PFD to satisfy the balance due in cases of default on public assistance overpayment claims. Before executing on a recipient's PFD, the Division must show that it provided notice to the individual advising that future PFDs will be garnished, and informing the person of the right to a hearing within 30 days of the notice.¹² The Division must also demonstrate that the claim of overpaid public assistance benefits has not been contested, or if contested, it has been resolved in favor of the Department of Health, and no appeal is pending or available due to the passage of time.¹³

The Division's garnishment notice to the individual must include the following information: (1) the amount of the overpayment claim; (2) a statement that PFD amounts up to

⁶ Div. Ex. 3.4

⁷ *Id.*

⁸ Div. Ex. 2-2.1.

⁹ *Id.*

¹⁰ Div. Ex. 5.

¹¹ 7 AAC 45.570; *see also* AS 47.05.080(a).

¹² AS 43.23.170(a)(3).

¹³ AS 43.23.170(a)(3)(C).

the amount of the overpayment claim will be paid to the Department of Health; and (3) notice that the individual has a right to request a hearing and has 30 days to file an objection to the garnishment claim if a mistake is made.¹⁴ If a hearing is requested, it is governed by the Administrative Procedure Act, AS 44.62.330 – 44.62.630, which places the burden on the Division to show by a preponderance of the evidence that it is entitled to the proposed garnishment.¹⁵

The documentary evidence shows that the Division has taken the necessary procedural steps to garnish Ms. Q's PFD. The OAH's 2014 final decision in case number 14-0006-ADQ, established both the fact of the ATAP overpayment and Ms. Q's obligation to repay it. The March 14, 2014, notice letter established the specific overpayment amount. Ms. Q is therefore precluded from challenging the existence of her debt, and no appeals are available due to the passage of time of more than eleven years.¹⁶ In addition, the Division has repeatedly notified Ms. Q since 2014 that her PFD could be garnished to recover the outstanding debt, and a prior garnishment occurred in 2023. The Division submitted evidence that its 2025 notice contained all the required information, including its calculation that the current balance of her debt is \$3,145.00

The Division has met its burden. Ms. Q has not presented any evidence to show a mistake has been made.

IV. Conclusion

The Division sent Ms. Q a notice that it would garnish her PFD because of her default in repaying an established debt arising from overpayment of public assistance benefits. It has proved by a preponderance of the evidence that it is entitled to garnish her PFD. As a result, the Division's garnishment action is AFFIRMED.

Dated: October 28, 2025

Signed

Beth Goldstein
Administrative Law Judge

¹⁴ AS 43.23.170(b).

¹⁵ AS 43.23.170(c). Because the Division, as petitioner, has filed an accusation in the form of its Notice of Garnishment, the Division bears the burden under AS 44.62.460(e)(1).

¹⁶ A review of Ms. Q's ADQ decision was appealable within 30 days after the date of the decision pursuant to Alaska R. App. P. 602(a)(2).

Adoption

The undersigned, by delegation from the Commissioner of Health, 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 18th day of November, 2025.

By: *Signed* _____

Name: Daniel R. Phelps II

Title: Process Improvement Manager
Office of the Commissioner
Alaska Department of Health

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