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

In the Matter of	)	
	)	
H X	)	OAH No. 25-2454-PFE
	)	

DECISION

I. Introduction

H X is a Senior Benefit recipient. The Division of Public Assistance (Division) notified her that it was intending to execute on her 2025 Permanent Fund Dividend (PFD) to satisfy a past due obligation owed the Division arising out of her previous receipt of Senior Benefits. Ms. X requested a hearing to challenge the Division executing on her 2025 PFD.

The evidence in this case shows that the Division properly established the existence and amount of overpaid Senior Benefits, the remaining balance owing of $3,930, and provided Ms. X with appropriate notice of the execution. As a result, the Division's execution on her 2025 PFD is AFFIRMED.

II. Facts

Ms. X received Senior Benefits in 2020, 2021, and 2022. On December 13, 2022, the Division determined that she received $3,930 in Senior Benefits more than she should have received. The Division notified her that she was responsible for paying those benefits back to the Division, and that her PFD could be taken to satisfy that obligation.[1] Ms. X signed a repayment agreement on February 11, 2023, received by the Division on February 23, 2023, wherein she assigned her "current and future PFD to satisfy the overpayment up to the full PFD amount" over to the State of Alaska.[2]

Ms. X did not make any payments on the debt. Nor were any payments received from her 2023 or 2024 PFDs.[3] The Division notified Ms. X on June 3, 2025 that her payments on the Senior Benefits debt were delinquent and that it could collect from her by taking her PFD.[4]

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1 Exs. 1 – 1.11.
2 Ex. 2.
3 Exs. 5 – 5.2; Ms. Thirlwell's testimony.
4 Exs. 3 – 3.4.

Ms. X responded to the Division's notice and requested a hearing.[5] Her hearing was held on August 11, 2025. Ms. X represented herself and testified on her own behalf. Marie Thirlwell, a Fair Hearing Representative for the Division, represented the Division and testified on its behalf.

III. Discussion

The Division is authorized to recover overpayments from public assistance recipients.[6] The PFD of a former recipient may be executed on to satisfy the balance due on a public assistance overpayment claim.[7]

A. Hearing Procedure

Hearings to contest Division executions against the PFD do not fall under the public assistance "Fair Hearing" regulations. Instead, they are Administrative Procedure Act (APA) cases: "AS 44.62.330 – 44.62.630 apply to a hearing requested by an individual under (b)(3) of this section."[8]

In this case, the Division must first establish that it has complied with the proper notice requirements, which includes the information that underlying overpayment claim has not been contested or has been resolved in the Division's favor.[9] The Division therefore has the burden of proof to demonstrate that it complied with the procedural requirements. After it has done so, it is incumbent upon the party objecting to the execution to demonstrate that the Division had made a mistake.[10]

B. Is the Division Entitled to Execute Against Ms. X's PFD?

Before it can execute on a PFD, the Division is required to comply with certain procedural safeguards.[11] 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 that hearing; (3) the overpayment claim either was not contested or, if contested, the issue was resolved in the

5 Ex. 4.
6 AS 47.05.080(a).
7 AS 47.05.080(b).
8 AS 43.23.170(c).
9 AS 44.23.170(a).
10 AS 43.23.170(b)(3).
11 AS 43.23.170(a).

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.[12]

The evidence shows that Ms. X was notified in 2022 of the Division's position that she had received an overpayment of Senior Benefits. She was told at the time that her PFD could be taken to satisfy that debt and that she had the right to contest the Division's repayment demand by requesting a hearing.[13] She resolved the issue by agreeing to repay the Division, which included assigning her PFD over to the State to repay the debt.[14] Ms. X's testimony did not contest those facts. Consequently, Ms. X cannot use this case to challenge either the existence of the underlying debt or her repayment agreement.

Ms. X was subsequently notified of the Division's decision to execute on her 2025 PFD and that she had the right to appeal that decision. That notice was sent to Ms. X's correct address, identified the amount due, stated that the Division intended to execute on her PFD, and notified her of her hearing rights.[15] This satisfied the statutory procedural requirements.[16] As a result, given the fact that the debt was established by Ms. X's agreement to repay it, the Division has met its burden of proof.

It must be noted that Ms. X did not challenge the existence of the debt or her prior agreement that the Division could garnish her PFD to pay off the debt. In fact, the evidence shows that no payments have been made on this debt and the outstanding balance due is $3,930. Instead, during the hearing, Ms. X requested that she be allowed to enter into a payment plan with the Division and keep her PFD. As Ms. X was advised during the hearing, that was outside the scope of the hearing, and if she wished to modify her previous agreement, she would need to contact the Division.[17] Accordingly, her request to enter into a payment plan will not be addressed further.

The evidence therefore shows the following. Ms. X previously agreed to repay the Division for the Senior Benefits that she was overpaid. That agreement included her agreeing

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12 AS 43.23.170(a)(3).
13 Exs. 1 – 1.11.
14 Ex. 2.
15 Exs. 3 – 3.4.
16 AS 47.23.170(b).
17 At hearing, the Division's representative informed Ms. Xof the specific office to contact regarding a payment plan.

that her PFD could be taken to satisfy that overpayment obligation. The Division showed that it satisfied the statutory procedural requirements prior to garnishing her PFD, including that she still had an outstanding obligation of $3,930 on her Senior Benefits overpayment. Accordingly, the Division is authorized to collect the outstanding obligation by garnishing her 2025 PFD.

IV. Conclusion

Ms. X has an outstanding payment obligation to the Division of $3,930 for overpaid Senior Benefits. Her obligation to repay the Division was established in 2023 when she agreed to pay the Division for overpaid Senior Benefits and consented to its collecting on that obligation by garnishing her PFD. Because Ms. X has not repaid the debt, the Division may execute on her 2025 PFD to help satisfy the remaining balance of $3,930.

Dated: August 26, 2025

By: *Signed*
Signature
Larry Pederson
Name
Administrative Law Judge
Title

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 11th day of September,2025.

By: *Signed*
Signature
Daniel R. Phelps II
Name
Process Improvement Manager
Title

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