

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

In the Matter of	)	
	)	
L.B	)	OAH No. 25-2814-PFE
_____	)	

DECISION

I. Introduction

In June 2023, the Division of Public Assistance (“Division”) determined L.B received more Alaska Temporary Assistance Program (ATAP) benefits than she qualified for because she delayed in informing the Division about a change in her income. The Division notified her of that overpayment determination, informed her that her Permanent Fund Dividend (PFD) could be intercepted to recover that debt, and provided an opportunity for a fair hearing.

The Division then seized Ms. B’s 2024 PFD, which covered some of her debt, but \$2687 remained. In July 2025, The Division notified Ms. B that it would be claiming her 2025 PFD to pay down the remaining balance. Ms. B requested a hearing to challenge the Division’s garnishment of her 2025 PFD.

The evidence in this case shows that the Division provided Ms. B with appropriate notice of the garnishment and properly established the existence and amount of overpaid benefits. As a result, the Division’s garnishment of her PFD is AFFIRMED.

II. Facts

The evidence in this case is based on the Division’s Position Statement and exhibits 1 through 7, as Ms. B failed to appear at hearing or provide any evidence.

Ms. B received \$4926 in ATAP benefits from August 2022 to January 2023. On June 20, 2023, the Division notified her that these payments were in error and she was overpaid by \$4387. The Division stated that the error was caused by Ms. B’s failure to timely report a change in her income.¹ In its notice, the Division informed Ms. B that she could request a fair hearing if she disagreed with the overpayment determination and that the Division could intercept her future PFDs to recover the overpayment.² Nothing in the record suggests Ms. B responded to or contested that determination.

¹ Ex. 1.

² *Id.* at 1 – 2, 10.

In 2024, the Division garnished Ms. B's PFD and collected \$1700, leaving \$2687 in debt remaining. The Division notified Ms. B that her next payment was due on November 15, 2024, and informed her she would be delinquent on her payment if she failed to repay her debt or agree to a payment plan by that date. They again reminded her that if she was delinquent in paying her debt future PFDs could be garnished.³

On July 14, 2025, the Division notified Ms. B that she was in default for failing to respond to previous notices or being more than thirty days delinquent on her payments. That notice informed her the Division would be claiming up to \$2687 from her 2025 PFD and that she could request a hearing on the garnishment.⁴ On July 23, 2025, Ms. B requested just such a hearing.

That hearing was held on October 13, 2025. Marie Thirlwell represented the Division at hearing, but despite multiple attempts to reach her, Ms. B did not appear.

III. Discussion

The Division is authorized to recover overpayments from public assistance recipients.⁵ The PFD of a former recipient may be taken to satisfy the balance due on a public assistance overpayment claim.⁶

A. Hearing Procedure

Ms. B did not appear for her hearing. Hearings to contest the Division's PFD garnishments are Administrative Procedure Act (APA) cases.⁷ Under APA procedural requirements, if a respondent does not appear for the hearing the case can proceed based on the party's express admissions or other evidence.⁸ When the agency has the burden, the ALJ needs to take evidence; if the burden is on the requester, the ALJ does not.⁹

To garnish a PFD, the Division must certify facts showing garnishment is appropriate and establish that it has complied with the proper notice requirements.¹⁰ This means the Division has the burden of proof to demonstrate that it complied with the applicable requirements. Therefore,

³ Ex. 4.

⁴ Ex 5.

⁵ AS 47.05.080(a).

⁶ AS 47.05.080(b).

⁷ AS 43.23.170(c) ("AS 44.62.330 – 44.62.630 apply to a hearing requested by an individual under (b)(3) of this section.").

⁸ AS 44.62.530.

⁹ *Id.*

¹⁰ AS 44.23.170(a).

even though Ms. B failed to appear, because the Division had the burden of proof, this case could not simply be dismissed or affirmed. Instead, the underlying evidence in the record was considered, and a decision was issued based upon that evidence—regardless of Ms. B’s non-participation.¹¹

B. The Division Is Entitled to Garnish Ms. B’s PFD

Before it can garnish an overpaid recipient’s PFD, the Division is required to certify that—

- the Division has notified the recipient of an overpayment that
 - a. their future PFDs will be taken to satisfy the overpayment claim; and
 - b. they have a right to request a hearing on the overpayment claim within 30 days from the date the recipient was notified of that claim;
- the overpayment claim either was not contested or, if contested, was resolved in the Division’s favor; and
- any disputed resolution of overpayment 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 Division is also required to meet certain procedural safeguards to ensure a debtor was properly notified of the pending garnishment. These require the notice to include—

- the amount of the overpayment claim;
- a statement that the amount to be garnished does not exceed that overpayment claim; and
- details regarding the recipient’s right to a hearing.¹³

The Division’s exhibits demonstrate that the Division notified Ms. B that she received an overpayment of ATAP benefits.¹⁴ The Division told her in that notice that her future PFDs could be taken to satisfy that debt and that she had the right to contest the Division’s repayment demand by requesting a hearing.¹⁵ That notice occurred in 2023, and nothing in the record suggests Ms. B ever contested it. The Division even garnished Ms. B’s 2024 PFD to partially pay

¹¹ AS 44.62.530.

¹² AS 43.23.170(a)(3).

¹³ AS 43.23.170(b).

¹⁴ Ex. 1.

¹⁵ *Id.*

off the debt, and that garnishment was not challenged either.¹⁶ These notices demonstrate the Division's compliance with the certification requirements of AS 43.23.170(a)(3).

Ms. B was also notified of the Division's decision to garnish her 2025 PFD and that she had the right to appeal that decision. That notice was sent to the same address Ms. B provided in her request for hearing, identified the amount due, stated that the Division intended to garnish her PFD for up to that amount, and notified her of her hearing rights.¹⁷ Accordingly, the Division also satisfied the statutory procedural requirements.¹⁸

Because it demonstrated its compliance with the statutory requirements for garnishment, the Division has met its burden of proof.

IV. Conclusion

Ms. B has an outstanding payment obligation to the Division of \$2687 for overpaid ATAP benefits. Her obligation to repay the Division was established in 2023 when she failed to appeal the Division's determination of overpayment. Because Ms. B has not repaid the debt and was properly notified, the Division may garnish her PFD to satisfy the outstanding balance.

Dated: December 1, 2025

Signed

Garrison A. Todd
Administrative Law Judge

¹⁶ Ex. 4.

¹⁷ Ex. 5 & 6.

¹⁸ AS 43.23.170(b).

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 3rd day of February, 2026.

By: Signed

Name: Rebecca D. Kruse

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.]