

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

In the Matter of	)	
	)	
T.S	)	OAH No. 22-0254-ATP
_____	)	

DECISION

I. Introduction

T.S is a former Alaska Temporary Assistance (Temporary Assistance) recipient. The Division of Public Assistance (Division) sent Ms. S notice that she was required to repay the Division \$501 for the Temporary Assistance benefits that she received for the month of March 2022. Ms. S requested a hearing to challenge the repayment requirement.

Ms. S's hearing was held on April 12, 2022. Ms. S represented herself and testified on her own behalf. Jessica Hartley, a Fair Hearing Representative with the Division, represented the Division. N.Q, Ms. S's case manager, with Education & Employment Service A, testified for the Division.

The evidence in this case demonstrated that Ms. S was no longer eligible to receive Temporary Assistance benefits after February 2022. The Division, however, paid her \$501 in Temporary Assistance benefits for March 2022. Although this was solely due to an error on the Division's part and not caused in any way by Ms. S, she is required to reimburse the Division for those erroneously paid benefits in full. Consequently, the Division repayment requirement is **AFFIRMED**.

II. Facts

The material facts are undisputed. Ms. S was a recipient of Temporary Assistance benefits.¹ Temporary Assistance benefits are limited to a total of 60 months in a lifetime.² Ms. S began receiving Temporary Assistance benefits effective March 2017, and received them continuously thereafter.³ On September 30, 2021, the Division sent Ms. S a notice advising her that she had received 56 months of benefits and that she was only eligible to receive four more months of benefits.⁴

¹ Ex. 1.

² AS 47.27.015(a)(1).

³ Exs. 8.1 – 8.2.

⁴ Ex. 2.

Ms. S requested an extension to the 60-month lifetime limit for Temporary Assistance benefits, which was denied in mid-December 2021.⁵ On January 14, 2022, the Division notified Ms. S that her extension request was denied, and that her Temporary Assistance benefits would terminate after April 2022.⁶ Ms. S did not request a hearing to challenge those actions.

At the beginning of March 2022, the Division determined that Ms. S's Temporary Assistance benefits should have ended with the month of February 2022. Because the Division was required to provide Ms. S with proper notice before terminating benefits, it issued her benefits for March.⁷ On March 3, 2022, the Division sent Ms. S notice that her Temporary Assistance benefits would end with March 2022. In that notice, it stated that "FEBRUARY 2022 IS THE 60TH MONTH OF TEMPORARY ASSISTANCE BENEFITS."⁸

On March 5, 2022, the Division sent Ms. S notice that she should not have received Temporary Assistance benefits for March 2022, and that she was required to repay the \$501 in Temporary Assistance benefits that she received for that month.⁹

III. Discussion

Temporary Assistance is a program created by the Alaska Statutes to implement the federal program Temporary Aid to Needy Families, or TANF.¹⁰ Temporary Assistance is designed to help financially eligible families with minor children.¹¹ A family may not normally receive Temporary Assistance benefits from the state (or parallel TANF programs in other states) for a total period of more than 60 months.¹² However, the Temporary Assistance regulations provide an exception to the 60-month lifetime limit when domestic violence, a physical or mental inability to work, or the need to care for a disabled child or relative, interfere with a recipient's ability to work.¹³ Ms. S requested an extension, was denied, and did not appeal that denial. Consequently, the denial of her extension is not an issue in this case.

The evidence in this case shows that Ms. S started receiving Temporary Assistance benefits effective with the month of March 2017. She received them continuously thereafter. As

⁵ Exs. 3.3 – 3.4.

⁶ Ex. 4.

⁷ See Ex. 5.

⁸ Ex. 6 (emphasis in original).

⁹ Exs. 10 – 10.1.

¹⁰ See A.S.47.05.010(1); A.S.47.27.005 – A.S.47.27.990; 42 U.S.C. § 601 *et. seq.* Temporary Assistance's governing regulations are found in the Alaska Administrative Code at 7 AAC 45.149 – 7 AAC 45.990.

¹¹ AS 47.27.010.

¹² AS 47.27.015(a)(1).

¹³ See AS 47.27.015(a)(1)(A) – (D); 7 AAC 45.610(d) – (g). However, this exception is not at issue here.

of the end of February 2022, she received benefits for a total of 60 months. This meant that she was not eligible to receive benefits thereafter.

The Division made errors in this case on two occasions. First, it notified Ms. S in September 2021 that her benefits would continue through April 2022, which would have been two months after they expired. Second, it did not catch its error until the beginning of March 2022, at which point it was too late to stop issuance of her March 2022 Temporary Assistance benefits. The Division therefore issued her \$501 in Temporary Assistance benefits for March 2022. Those were benefits to which Ms. S was not entitled. These errors were not in any way attributable to Ms. S.

The Division then required Ms. S to repay it the \$501 in Temporary Assistance benefits that it issued her for March 2022. Ms. S understandably and reasonably argued that she should not be liable repayment of benefits that were issued solely due to the Division's mistake. She also credibly testified about her family's difficult financial situation. Temporary Assistance regulations, however, require a Temporary Assistance recipient to repay overissued Temporary Assistance benefits, even if the overpayment was not caused by the recipient:

the department will pursue collection from a current recipient of [Temporary Assistance] 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 \$100.¹⁴

Pursuant to the Temporary Assistance regulations, the Division must require repayment of the \$501 in benefits erroneously issued to Ms. S for March 2022, even though the benefit issuance was entirely due to the Division's error, because the amount exceeds \$100. Repayment is still required even though Ms. S's family is in a very poor economic situation. The Division does not have any discretion in this matter: "Administrative agencies are bound by their regulations just as the public is bound by them."¹⁵

IV. Conclusion

The Division's decision that Ms. S repay it \$501 for overpaid Temporary Assistance benefits is AFFIRMED.

Dated: April 22, 2022

¹⁴ 7 AAC 45.570(a). There is one exception to this requirement, but it requires the Division to determine that "collection activities are no longer cost effective." 7 AAC 45.570(k). Determining the cost effectiveness of collection efforts is not a subject that can be addressed by this decision.

¹⁵ *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).

Signed

Lawrence A. Pederson
Administrative Law Judge

Adoption

The undersigned, by delegation from 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 3rd day of May, 2022.

By: Signed
Name: Lawrence A. Pederson
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.]