

Reasons for Decision:

Order # 1516-420

The appellant appealed that the appellant has been assessed an overpayment in the amount of **<amount removed>** due to receiving a lump sum from **<reference removed>** benefits.

The Department reported at the hearing that they had received a report from **<reference removed>** on **<date removed>** advising that the appellant was in receipt of an ongoing **<reference removed>** retirement amount of **<amount removed>** per month and that the appellant received a lump sum payment of **<amount removed>** at the end of **<date removed>**. As the appellant received a regular monthly payment of **<amount removed>** at the end of **<date removed>** and the appellant's **<date removed>** benefit had already been mailed this amount was considered as an overpayment. The Department met with the appellant on **<date removed>** to discuss the lump sum amount which the appellant denied receiving. On **<date removed>** the worker met with the appellant and it was determined that the appellant did in fact receive the funds from **<reference removed>** in the form of a cheque while in receipt of income assistance but the appellant believed it to be an income tax refund. The **<amount removed>** back payment was applied to the appellant's file as an overpayment and added to the previous overpayment of **<amount removed>**. The total overpayment of **<amount removed>** is being deducted at \$50.00 per month as per policy for single persons and the ongoing monthly **<reference removed>** benefit is deducted dollar for dollar from the appellant's monthly budget.

The Manitoba Assistance Regulation Section 8 lists which sources of income are subject to an exemption, and pension plans of any sort are not included in this listing. The appellant's **<reference removed>** benefits are therefore considered an ongoing financial resource which is subject for deduction.

The appellant stated that the appellant had not been informed by **<reference removed>** that they were giving the appellant a back payment for the months of **<references removed>**. The appellant believed when the appellant received the lump payment of **<amount removed>** that this was the appellant's Income tax refund. The appellant understands that the Department would create an overpayment for the **<amount removed>** the appellant received at the end of **<date removed>** but the appellant doesn't believe they should consider the amounts the appellant received for months prior to applying for income assistance. The appellant referred to other federal benefits that are not subject to deduction and doesn't understand why these benefits are. The appellant finds that as **<reference removed>** was in fact from earned income, the appellant should have been eligible for a work incentive of \$200.00 per month that the Department allows.

Section 15.2.8 of the Employment and Income Assistance Manual states:

LUMP SUM PAYMENTS - LIQUID ASSET PROVISIONS

When certain types of unearned income are received as a lump sum, all or part may be regarded as an exempted liquid asset and therefore not available for current maintenance. Examples of such types of unearned income are:

1. cash replacements for material assets lost and not to be replaced. Loss might be a result of sale, transfer, fire or theft;
2. lump sum compensation for injury, disability, retirement or death, as long as the lump sum is not part of an ongoing stream of pension income. Funeral costs normally have first claim on items such as death benefits and life insurance, and so such lump sum payments received by survivors receiving income assistance should be reduced accordingly prior to applying provisions noted; and
3. inheritances and windfalls not subject to some other facet of policy such as some parts of trust policy.

Unearned income in lump sums, other than the kinds noted above, are not subject to whole or partial exclusion from available resources under liquid asset exemption provisions. These other sources of lump sums might be maintenance, training allowances, insurance for income lost and various kinds of ongoing private and public pensions such as the Canada Pension Plan.

After carefully considering all the written and verbal information presented at the hearing the Board has determined that the Department has properly administered the appellant's eligibility for income assistance. Financial eligibility for income assistance benefits is calculated by comparing the financial resources a person has available to them to a basic needs budget.

The appellant's argument is that the appellant earned a pension income and should be eligible for the work incentive, therefore **<reference removed>** benefits should not be considered unearned income. The Department stated that the appellant's **<reference removed>** benefits are based on the appellant's past contributions during employment, the benefit itself is not deemed earned income as it is not being earned as current wages.

The Manitoba Assistance Regulation Section 8 states that some financial resources are exempted. However the Regulation does not provide for any exemption on **<reference removed>** benefits.

The Board has determined that the Department has correctly assessed the appellant's financial eligibility. Therefore the decision of the Director has been confirmed and the appeal is dismissed.