

Reasons for Decision:

Order # AP1718-0165

The appellant appealed that an overpayment of <amount removed> was assessed against the income assistance file.

The program representative stated that the appellant attended an intake appointment, with a parent, on <date removed>. The appellant was advised that due to recently being employed, the appellant would be required to provide a copy of a Record of Employment (ROE) and confirm that the appellant had applied for Employment Insurance benefits (EI). All income assistance applicants must explore all other sources of income and provide confirmation that they have done so in order to assess eligibility.

The appellant signed an Assignment of Benefits form for EI which, if found eligible for EI benefits, the income assistance program will recoup all income assistance benefits received and not entitled to while receiving EI benefits. The appellant also signed an action plan which states that the appellant will advise the worker of any change in financial situation and declare all other income received. On <date removed> the program was advised by EI that the appellant was eligible and received a back pay amount of <amount removed> in <date removed>, which was not reported to the program. An overpayment was assessed for all EIA benefits received in <time period removed> in the amount of <amount removed> and the remaining amount was assessed against the appellant's future benefits.

The appellant's parent, <name removed>, has power of attorney and attended the hearing on the appellant's behalf.

The appellant stated that the appellant applied for EI benefits in <date removed> and was not approved until <date removed>. The appellant was found eligible for EI benefits retroactive to <date removed>, and a lump sum was received on <date removed>. The appellant's parent stated that the parent tried to call the appellant's worker several times and did not receive a call back until the parent sent a registered letter to the appellant's worker. The parent advised that the appellant tried to get EI payment since <date removed>, and it is not the appellant's fault that EI did not approve the appellant's claim until <date removed>. The parent described how the appellant suffers from a mental illness and does not understand all these government forms and letters the appellant receives. It was very confusing for the appellant, and the appellant thought the appellant was following the instructions of EIA accordingly. The parent further advised that the appellant received several inconsistencies on dates, letters, instructions etc. from the EIA program which makes it even more difficult to understand the correct processes. The parent stated that the appellant is not arguing the overpayment itself; the parent is arguing that the appellant did not

receive accurate information or timely responses so did not know better. If the appellant received EI benefits properly in <month removed>, the appellant should only be penalized with an overpayment from when the EIA benefits started in <month removed>. The parent also requested that the appellant's overpayment recovery rate be reduced to <amount removed> per month rather than the \$50 per month due to financial hardship.

LEGISLATIVE AUTHORITY FOR RECOVERY OF OVERPAYMENTS

Section 20(1) of The Manitoba Assistance Act

Recovery of payments made in error or on false statements

20(1) Where the government has provided or paid assistance or any income assistance, general assistance or shelter assistance to or for a person, if the assistance or income assistance or general assistance, or any part thereof, would not have been provided or paid except for

- a. a false statement or misrepresentation made by the person; or
- b. an error;

Section 24.2.5 of the Employment and Income Assistance Manual states

RATE OF RECOVERY

It is essential that recovery be made on any active income assistance file where monies have been overpaid. Section 20(3) of The Employment and Income Assistance Act requires that amounts deducted from income assistance payments will not cause undue hardship. Accordingly, the recovery rate is based on the size of the household, as follows:

1 person	\$50.00
2 persons	\$70.00
3 or more persons	\$90.00

Larger sums may be authorized by the participant. Smaller sums may be authorized by the EIA Director or designate, where the participant has demonstrated that hardship will occur if the recovery rate is fully implemented.

After carefully considering the written and verbal information, the Board has determined that the Employment and Income Assistance Program has properly administered the appellant's overpayment with Income Assistance. When the appellant applied for income assistance, the appellant was accompanied by the appellant's parent. In the parent's presence, the appellant signed the application form which indicates that the appellant is obligated to report any changes in personal and financial situation immediately. One of the examples given is EI benefits. Due to the appellant's not receiving EI benefits immediately, it unfortunately created an

overpayment as the appellant had already received income assistance benefits for the same time period, and therefore was overpaid and required to repay the overpayment. The decision of the Director has therefore been confirmed.

At the hearing, the appellant's parent requested the monthly recovery rate be reduced. The Board accedes to this request and orders the Department to reduce the appellant's monthly recovery rate to <amount removed>.

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