

Reasons for Decision:

Order # AP1819-0226

<name removed> appealed that their Employment and Income Assistance budget is insufficient to meet their family's needs and that they were assessed an overpayment.

Budget

The Department advised that when <name removed> applied for income assistance, their family was composed of two adults and one child. EIA budgets are established as per the legislated rates under the Manitoba Assistance Act for family composition, shelter, utilities, basic needs and ongoing medical needs. <name removed>'s budget has been increased effective <date removed> due to an additional family member added.

The program stated that <name removed> receives the legislated amount for basic needs and shelter allowance for their case category.

At the hearing, <name removed> advised the Board that they and their family came to Canada under a sponsorship program. The appellant has a doctorate and two master's degrees and after fourteen months in Canada, the appellant was unable to obtain employment. The appellant stated they had to move from their original home due to unsanitary conditions, and could not find a cheaper place that was not in the same condition; therefore, they are paying above guideline rental rates.

After carefully considering all the written and verbal information, the Board has determined that <name removed> is receiving the regulated amounts for their income assistance benefits. These rates are set by legislation and cannot be increased by the caseworkers, the Directors, or the Board itself. Therefore, the Board confirms the decision of the director and the appeal is dismissed.

Overpayment

<name removed> advised that they received non EIA Rent Assist and Manitoba Child benefits, which was deducted from their income assistance benefits. The appellant finds they have a right to those benefits and disagrees with the deduction to their income assistance benefits.

The Department stated that <name removed> was enrolled on EIA on <date removed>. On <date removed>, the case counselor received an email from the Provincial Services Branch, who administers the non EIA Rent Assist program, advising that the family had been in receipt of <amount removed> for the month of <date removed>, <amount removed> Manitoba Child Benefit for <date removed> and <amount removed> for <date removed>. The total overpayment was <amount removed>, which is being deducted at

the family rate of \$90.00 per month. A letter was sent to <name removed> on <date removed> advising of the overpayment and the repayment plan.

<name removed> called the Department to express their distress and financial hardship. The appellant agreed that they did receive the funds but did not feel it was fair to deduct them from their income assistance benefits. The Department recalculated the overpayment for the month of <date removed> and the overpayment was reduced by <amount removed> for <date removed> due to his EIA enrollment effective <date removed>.

As <name removed> expressed significant financial hardship on multiple occasions, the Department approved to lower the rate of recovery amount from \$90.00 per month to \$50.00 per month for three months beginning <date removed>. The Department encouraged the family to make efforts to try to improve their financial situation or seek lower rental costs.

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:

<i>1 person</i>	<i>\$50.00</i>
<i>2 persons</i>	<i>\$70.00</i>
<i>3 or more persons</i>	<i>\$90.00</i>

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 Department has properly administered <name removed>'s overpayment with Employment and Income Assistance. Financial eligibility for income

assistance benefits is calculated by comparing the financial resources a person/family has available to them to a basic needs budget. Due to receiving other benefits, it unfortunately created an overpayment as income assistance benefits had already been issued for the same time period, so <name removed> is required to repay the overpayment. Therefore, the decision of the Director has been confirmed.

However, the Board finds that although the Department was very accommodating to reduce the overpayment recovery amount, the Board finds the family is in financial hardship and orders the Department to further reduce the monthly recovery rate to \$20.00 per month while their income assistance file is active.

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