

**Reasons for Decision:**

**Order #AP2021-0202**

On <date removed>, <name removed> filed an appeal of the decision of the Director, Winnipeg West to close their income assistance file and assess an overpayment. The appeal was based on two letters sent by the Department on <date removed>.

The first Department letter stated <name removed>'s file was closed due to unreported business earnings that exceeded their income assistance budget. The second letter assessed an overpayment of <amount removed>.

The Department told the Board that it closed <name removed>'s file because it could not establish their financial eligibility.

The Department stated it received a third-party allegation in <date removed> that <name removed> was engaged in an online bingo business. The Department conducted a lengthy investigation and determined that <name removed> was engaged in an online business. The Department noted it investigated <name removed> in <year removed> for an alleged common-law union, and that they were made fully aware of the Department's requirement to report any change in circumstances, including income.

Based on the amount of unreported income alleged by the third-party caller, the Department suspended <name removed>'s benefits in June 2020, and asked that they submit six months of bank statements from all accounts. <name removed> advised the Department that they have closed a number of accounts.

A Department investigator joined <name removed>'s Facebook group. Over the next two weeks, the investigator noted frequent gaming activity on <name removed>'s Facebook page. Further investigation revealed the gaming site had been active since at least March 2020, and that <name removed> had not declared any income during this period.

<name removed> did not provide the requested information for several weeks. The appellant advised that they were unable to get the information because they were on bed rest due to <text removed>. The appellant refused to attend the Department's office for a meeting, citing concerns over <text removed> and COVID-19.

On <date removed>, investigators visited <name removed> at the appellant's home. The Department alleged that <name removed> confirmed that they were involved in the online bingo business. The Department advised <name removed> that they could request that their assistance file be closed, or submit all banking information and business records so the Department could assess their financial eligibility.

<name removed> subsequently advised the Department that they have closed their bingo accounts and were no longer running online bingo games. The appellant asserted that they have only run the games for one month. However, the Department received another third-party allegation that <name removed> had opened new bank accounts and was still running the games. The third party alleged that <name removed> had posted on social media that the Department was investigating them.

A Department investigator observed <name removed>'s Facebook group and confirmed that they were still operating an online bingo business. The investigator also confirmed that <name removed> had posted information about the Department's investigation on social media. In the posts, <name removed> admitted to operating the games.

<name removed> submitted a bank statement for May 2020, instead of the six months requested by the Department. The bank statement showed deposits of <amount removed> in one month. As <name removed> did not have an approved self-employment business plan with the Department, they would not be allowed to deduct any business expenses from their gross revenue.

The Department advised <name removed> that it required detailed information about their bank accounts and expenses. <name removed> asserted that it was unreasonable for the Department to request the information or require them to meet with their counsellor, due to <text removed> and COVID-19.

<name removed> subsequently provided a statement for a new bank account covering the period <dates removed>. At approximately the same time, the Department received another third-party call alleging that <name removed> was intentionally defrauding the Department by opening a number of accounts that they had not disclosed to the Department.

After <name removed> submitted the new bank statement, the Department observed <name removed>'s Facebook group again, and confirmed that they were still operating an online bingo business.

<name removed> did not submit any additional information prior to <date removed>, when the Department closed their file and assessed an overpayment. Although the file was closed on <date removed>, the effective date of the closure was <date removed>, when their benefits were first suspended. The overpayment was calculated for the months of April, May and June 2020, using <name removed>'s monthly budget of <amount removed>.

In summary, the Department stated it was unable to determine <name removed>'s eligibility for assistance because it was unable to determine their income. <name removed> was provided many opportunities to declare information, and to submit bank accounts and a business plan for approval, but they did not provide the necessary information. The limited information they did provide, as well as the Department's own investigation, demonstrated that they were receiving significant amounts of undeclared income.

<name removed> told the Board she was no longer operating an online bingo business. The appellant asserted that they had not operated the business for a long time, with one recent exception when they needed to raise money for <text removed>.

<name removed> asserted that they closed their bank accounts prior to the Department's investigation, because they realized operating the business was wrong. The appellant reiterated that it took time to provide the Department with information because they were on bed rest.

<name removed> objected to the Department's raising the 2018 investigation. The appellant noted the investigation had not found any wrongdoing on their part, and they asserted the Department raised the investigation to create the appearance that they had a history of non-compliance. The appellant stated the online business was their only violation in the five years they had been receiving assistance, and that they started the business because they were bored while on bed rest, and needed money for <text removed>.

<name removed> stated they did not realize that operating an online gaming business was illegal, as well as in violation of the Department's rules.

<name removed> disputed the Department's assertion that they made <amount removed> in one month from bingos. The appellant stated the standard profit on a bingo game was <amount removed>, and that they did not operate 30 games per day as alleged by the Department. The appellant asserted that their <month removed> profit was only <amount removed>.

<name removed> told the Board that the Facebook group was created by another person in <month removed>. The appellant took control of the group around <month removed>, but they did not start operating games until May.

<name removed> questioned the size of the overpayment, noting they have not received benefits for several months.

In response to a question from the Board, <name removed> stated the <amount removed> in deposits included approximately <amount removed> in child tax benefits, as well as two payments of <amount removed> from the Department. The remaining <amount removed> in deposits represented gross income from bingo games. The appellant asserted that they identified bingo payouts on the bank statements, although many of their notations do not show on the photocopied statements.

The Board asked <name removed> if they knew they were not allowed to operate a business while on assistance without the Department's approval. <name removed> stated they did know it was not allowed, which was why they stopped operating the business prior to the Department's investigation.

In response to a question from the Board, the Department confirmed <name removed> has not sought approval from the Department for a business plan for their business. <name removed> noted their business was illegal, so it would be unlikely to gain approval.

The Department confirmed that <name removed> had participated in annual reviews of their eligibility while on assistance and that they had signed an action plan that contained an obligation to notify the Department immediately about any change in circumstances. <name removed> agreed that they had signed the action plan. The appellant acknowledged that they have not reported their income, and reiterated that they stopped operating the games because they knew it was wrong.

<name removed> stated they knew a person who also operated an online bingo business while on assistance. The appellant asserted that the Department accepted hand-written notations as evidence of business expenses for that person, and assessed an overpayment without closing the person's assistance file.

<name removed> noted they would be receiving a retroactive disability payment for their children, and they would have been willing to repay <amount removed> to the Department to avoid file closure. The Department explained that <name removed>'s file was closed because the Department could not determine their eligibility, and that repayment of the overpayment would not eliminate the ongoing need to determine their eligibility.

The Board notes that the Department conducted an extensive investigation and submitted significant documentation of the investigation's conclusions. In summary, the Department provided evidence that <name removed>:

- Established an online bingo business in <month removed>;
- Operated that business continuously until at least <month removed>;
- Had deposits of more than <amount removed> in one bank account in a 20-day period;
- Did not report any income to the Department from <dates removed>;
- Was advised by the Department on more than one occasion about the rules concerning undeclared income;
- Continued to operate the business after telling the Department more than once that they had closed the business; and
- Failed to provide the Department with complete information about their bank accounts and business expenses.

In response, <name removed> provided only a partial explanation of their circumstances. The appellant admitted to operating the business in <date removed>, and making a profit of <amount removed> that month. The appellant also admitted to operating the business for one weekend after the Department suspended their benefits. <name removed> did not respond to the Department's screenshots of Facebook posts showing they were

operating the business after the Department began its investigation. The appellant simply denied, without evidence, that they were still engaged in the business.

Evidence submitted by the Department shows that <name removed> had <amount removed> deposited to their account between <dates removed>. The deposits included <amount removed> from the Department for assistance and <amount removed> in child tax benefits, leaving <amount removed> in unexplained deposits.

While <name removed> asserted that they provided an explanation of the bingo payouts to the Department by highlighting the payments on the bank statement, the Board notes that handwritten notations carry little weight as evidence. Even if the Board accepts <name removed>'s assertion that their profit for <month removed> was only <amount removed>, that profit exceeds their monthly assistance budget.

<name removed> did not refute the Department's evidence that they started the business in <date removed>, and ran it continuously until at least <date removed>. On a balance of probabilities, the Board determines that <name removed> had unreported income in all months from <months removed>.

The Board notes that <name removed> opened the account in question on <date removed>. Their <date removed> child tax benefit payment does not appear in this account, although the <date removed> payment does appear. This strongly suggests that <name removed> has another bank account that they did not disclose to the Department. <name removed> then closed the account on <date removed>, lending credence to the Department's suspicion that they were opening and closing accounts to evade detection by the Department.

<name removed> admitted that they knowingly violated their signed commitment to report all changes in circumstances. Furthermore, <name removed> made repeated assertions that were contradicted by objective evidence, and did not refute any of the evidence submitted by the Department. The Board determines that <name removed> failed to provide sufficient information to enable the Department to determine their financial eligibility.

Based on a careful review of the written and verbal evidence, the Board determines that the Department administered <name removed>'s file according to legislation, regulations and policy. The Board confirms the decision of the Director to close the appellant's file and assess an overpayment of <amount removed>.

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