

**Reasons for Decision:**

**Order #AP1718-0243**

The appellant appealed that an overpayment was assessed for income assistance that was paid while the appellant was incarcerated.

The facts of this appeal are not in dispute.

The appellant was in receipt of income assistance as a single general assistance recipient.

The appellant was planning on moving effective <date removed> and had provided a new rent form to the Employment and Income Assistance program.

The appellant was incarcerated on <date removed>, but did not inform Income Assistance of the incarceration.

On <date removed> the program processed the appellant's income assistance benefits of <amount removed> which were deposited into a bank account on <date removed>. This would have comprised of <amount removed> for rent and <amount removed> for basic needs and job searcher's allowance.

On <date removed> the program received an Incarcerated Persons Report and became aware that the appellant had been incarcerated. The program determined that the appellant received income assistance to which the appellant was not entitled and the full amount of benefits, <amount removed>, was assessed as an overpayment.

The appellant and an advocate indicated that at the time of the appellant's incarceration the appellant did not have the capacity to recognize the need to make contact with Income Assistance to advise of the change in circumstances. The appellant was in an active state of <text removed>, and did not have any support person in place at that time to make the notification on the appellant's behalf. The appellant has since been assessed and connected with appropriate resources and medication.

They stated that the appellant had no knowledge that the appellant had been paid income assistance while incarcerated until the appellant was released and able to access the bank account again. If the funds were sitting in the bank account the appellant would have been able to return the funds to the program. Unfortunately the person whom the appellant was planning on residing with effective <date removed> had used the appellant's bank card and PIN number to access the bank account and withdraw the funds.

The advocate stated at the hearing, that although they recognize the appellant's error in providing the PIN number to a third party, they requested that the Board take into consideration the appellant's mental capacities at the time these decisions were made.

After carefully considering the written and verbal information the Board has determined that only part of the funds paid to the appellant should be recovered as an overpayment. While the Board acknowledges that the appellant failed to meet the obligation to inform the program of the incarceration, it accepts that the appellant's health condition limited the capacity to do so. Therefore, as part of the funds released were for <text removed> rent, and should have been provided to the appellant by <date removed> and given that the appellant had a contractual obligation to pay the rent, it is the Board's opinion that only the basic needs and job search portion of the funds should be recovered. As the appellant had basic needs provided for while incarcerated, the appellant was not entitled to these funds, and therefore the funds were overpaid to the appellant.

Therefore the Board has reduced to overpayment by <amount removed> so that only <amount removed> is to be deemed a recoverable overpayment.

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