

# Third District Court of Appeal

State of Florida, July Term, A.D. 2007

Opinion filed December 19, 2007.

Not final until disposition of timely filed motion for rehearing.

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No. 3D06-2689

Lower Tribunal No. 06-03247

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**Samira Nekhaila,**  
Appellant,

vs.

**Florida Department of Children and Families,**  
Appellee.

An Appeal from the Florida Department of Children and Families.

Samira Nekhaila, in proper person.

Javier A. Ley-Soto, for appellee.

Before COPE, SHEPHERD, and CORTIÑAS, JJ.

PER CURIAM.

This is an appeal of a final order of the Florida Department of Children and Families, which ordered the appellant to repay amounts which were overpaid by

the Medicaid Program. The order found that \$931.81 was overpaid because of an error of the Department, and \$2597.71 through error by the appellant. Under Florida law the Department must recover overpayments, regardless of whether overpayment is the result of an error on the part of the Department or the recipient. See § 414.41, Fla. Stat. (2005); Payne v. Fla. Dep't of Children & Family Servs., 875 So. 2d 763 (Fla. 3d DCA 2004); Willis v. Dep't of Children & Family Servs., 735 So. 2d 585 (Fla. 3d DCA 1999). While we sympathize with the appellant's situation, the statute requires repayment even though a significant portion of the error was attributable to the Department.

The Department has indicated that it has a payment plan option which is available to all benefit recovery clients, such as the appellant. This court's affirmance of the repayment order is without prejudice to the appellant to contact the Department to work out a payment plan, as indicated in the Department's additional response filed in this court in October 2007.

Affirmed.