

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JANUARY TERM, A.D. 2004

LINDA PAYNE,

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Appellant,

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v.

CASE NO. 3D03-1740

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FLA. DEPT OF CHILDREN  
& FAMILY SERVICES, etc.,

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LOWER  
TRIBUNAL NO. 03F-0582

Appellee.

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Opinion filed on June 16, 2004.

An appeal from the State of Florida Department of Children  
and Families, Office of Appeal Hearings.

Linda Payne, in proper person.

Sandra Piligian, District 11 Legal Counsel, for appellee.

Before COPE, GERSTEN, and SHEPHERD, JJ.

PER CURIAM.

Linda Payne appeals from a final administrative order  
requiring her to reimburse the Department of Children & Families  
(Department) for the overpayment of aid for dependent children  
(AFDC) benefits. We affirm.

In the instant case, Payne received cash assistance benefits from the Florida Department of Children & Families in the sum of \$1,080 as a result of Department error. Payne had cared for the child in question since birth, but was not blood related to the child. This made her ineligible for benefits. Pursuant to the Florida Statutes, Florida Administrative Code and the Code of Federal Regulations, the Agency is required to recoup these overpayments. See Willis v. Dept. of Children & Family Serv., 735 So. 2d 585 (Fla. 3d DCA 1999); see also Lewis v. State, Dept. of Health & Rehabilitative Servs., 659 So. 2d 1255 (Fla. 4th DCA 1995). As in Willis, we find that Ms. Payne must reimburse the Department for the erroneous payment of benefits.

Although we must affirm the Department's final order, we acknowledge that the Department has caused the error, and that Ms. Payne will now have to repay the Department at a time when she is struggling to provide for the minor child for whom she is serving as a legal guardian. As we did in Willis, we pause to sympathize with Ms. Payne and believe that her frustration with the situation created by the Department is well founded.

Affirmed.