

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

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Lashawnda Williams,

Petitioner,

vs.

Department of Health,

Respondent.

DOH-06-1308-FOF-HO
Case no.: 05-2580

2006 JUL 18 A 11:50
DIVISION OF
ADMINISTRATIVE
HEARINGS
FILED

FINAL ORDER

This is a section 120.57(1) adjudicatory proceeding. A second recommended order has been filed and is before the Department of Health (hereinafter the Department) for consideration.

The Petitioner was notified of Department's determination that she had received a salary overpayment after her employment at the Department ended. The notification letter informed her of the dollar amount of the overpayment determination, and of her right to challenge the determination by requesting an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes. The Petitioner timely requested such a hearing and this proceeding ensued. The procedural history is set forth in the second recommended order.

The ALJ entered the second recommended order on June 7, 2006, which satisfies the requirements of section 120.57(1)(k), Florida Statutes. The ALJ renews his recommendation that the Department dismiss this proceeding for lack of jurisdiction, but makes findings of fact to permit the entry of a final order adjudicating the overpayment issue on its merits.


Via the "Department's Exceptions to Second Recommended Order" counsel for the Department renews his objection to the ALJ's recommendation of dismissal for lack of jurisdiction. I concur with the exceptions. The Department's authority to conduct this quasi-judicial proceeding is set forth at

length in its "Order of Remand" filed December 21, 2005, which is incorporated by reference. Counsel requests that the amount of the overpayment be assessed at \$8,354.09, the amount actually received by the Petitioner plus the amount of taxes withheld and paid to the Internal Revenue Service for the benefit of the Petitioner. Again, I concur with counsel. The Department is entitled to recovery of the full amount disbursed in error to and for the benefit of the Petitioner. Except where inconsistent with this final order, the second recommended order is adopted and incorporated by reference.

Based on the foregoing, the Petitioner is directed to refund to the Department of Health eight thousand three hundred fifty-four and 09/100 dollars (\$8,354.09). Payment in full is due within 30 days of the filing date of this final order. If requested by the Petitioner, payment may be made by up to 60 equal monthly installment payments, the first payment being due 30 days after the filing date of this final order. Interest on the amount of the overpayment, \$8,354.09, is waived on the condition that the refund is paid in full pursuant to this final order without the necessity of further collection efforts.

DONE AND ORDERED this 14th day of ~~December~~ July 2006 in Tallahassee, Leon County, Florida.

M. Rony François, M.D., M.S.P.H., Ph.D
Secretary, Department of Health



Robert Eadie, J.D.
Deputy Secretary

A PARTY ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. A REVIEW PROCEEDING IS GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. A REVIEW PROCEEDING IS INITIATED BY FILING A NOTICE OF APPEAL WITH THE CLERK OF THE DEPARTMENT OF HEALTH AND A COPY ACCOMPANIED BY THE FILING FEE WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES OR THE FIRST DISTRICT COURT OF APPEAL. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE FILING DATE OF THIS FINAL ORDER.

Copy provided to each of the following:

✓ Hon. John G. Van Laningham
Administrative Law Judge
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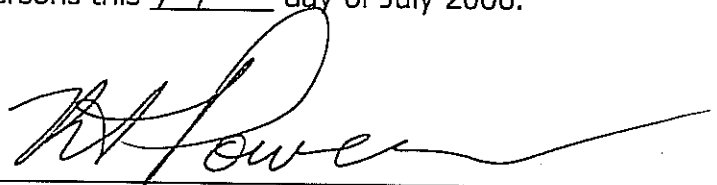
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Michael Cover, Esquire
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Miami, Florida 33126

FALR

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing FINAL ORDER has been served by ordinary mail via the United States Postal Service, inter-office mail, or by hand delivery to each of the above-named persons this 14th day of July 2006.



R. Samuel Power, Agency Clerk,
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Tallahassee, Florida 32399-1703
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