

SENATE BILL REPORT

SSB 6508

As Amended by House, February 29, 2012

Title: An act relating to department of social and health services waivers of overpayment recoveries.

Brief Description: Authorizing waivers from certain DSHS overpayment recovery efforts.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Pridemore).

Brief History:

Committee Activity: Human Services & Corrections: 2/02/12 [DPS, w/oRec].

Passed Senate: 2/14/12, 31-18.

Passed House: 2/29/12, 63-35.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6508 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Carrell, Harper and McAuliffe.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Jennifer Strus (786-7316)

Background: The Department of Social and Health Services (DSHS) must collect from any person who is overpaid public assistance, food stamp or medical benefits the amount that the person has been overpaid. Overpayment is defined as any payment or benefit to a recipient (or vendor) in excess of that to which the recipient (or vendor) is entitled by law, rule or contract. DSHS has a variety of methods by which it can collect overpayments: reduction in the amount of the continuing grants of benefits, assignment of earnings, a lien on personal or real property of the recipient.

DSHS cannot collect overpayments after six years have passed from the date the notice of overpayment unless DSHS has already started the recovery action in court or an administrative remedy is in place. Even if DSHS started recovery efforts before the six year

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period had expired, any debt due DSHS expires at the end of ten years from the date the notice is sent unless a court-ordered remedy would be in effect for a longer period of time. No debt due DSHS can be collected after the expiration of 20 years from the date a lien is recorded.

DSHS can accept offers of a compromise on disputed claims or may grant partial or total write-off of any debt if it is no longer cost effective to pursue collection of the debt.

Summary of Substitute Bill: DSHS may waive all efforts to collect overpayments from a client when it determines that the overpayment was not the fault of the client and the overpayment was less than \$2,000. By January 1, 2013, DSHS, in collaboration with the Department of Early Learning (DEL) and the State Auditor's Office (SAO), must identify, review, and provide the Legislature with recommendations for integrated monitoring and detection systems to prevent overpayments of public assistance from occurring.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Payment mistakes happen, and very often it is not through the fault of the recipient. Many mispayments occur in the TANF program, especially when the recipient starts working and reports his or her income to DSHS. DSHS then uses a complicated formula to determine how much the recipient's grant should be adjusted. Often the recipient will receive the same amount and believe that since they reported their income to DSHS, that the amount of the grant must be correct. Then they are informed that they were overpaid, and DSHS collects the overpayment out of their ongoing grant amount which is often a hardship on the recipient and his or her family. Accountability should work both ways.

Persons Testifying: PRO: Robin Zukoski, Columbia Legal Services.

House Amendment(s): Authorizes DSHS to waive efforts to collect overpayments made to a client if DSHS determines that the elements of equitable estoppel have been met as follows: (1) DSHS took an action or failed to take an action regarding overpayment of benefits which is inconsistent with a later claim or position; (2) the client reasonably relied on DSHS's original statement, action, or failure to act regarding overpayment; (3) the client would be injured to the client's detriment if DSHS is allowed to contradict the original statement, act, or failure to act regarding overpayment; (4) the client cannot afford to repay the overpayment; (5) the client gave DSHS timely and accurate information when required; (6) the client did not know that DSHS made a mistake; (7) the client is free from fault; (8) the overpayment was caused solely by DSHS's mistake; and (9) waiving overpayment collection efforts will not impair DSHS's functions.