

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Lucas State Office Building
Des Moines, Iowa 50319

Appeal Number: 06-IWDUI-206
OC: 04/03/05
Claimant: Appellant (1)

DECISION OF THE ADMINISTRATIVE LAW JUDGE

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**BRENDA A COOK
260 JACOLYN DRIVE NW
CEDAR RAPIDS IA 52405**

STATE CLEARLY

**IOWA WORKFORCE DEVELOPMENT
INVESTIGATION AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209**

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

DAN ANDERSON, IWD

(Administrative Law Judge)

November 27, 2006

(Decision Dated & Mailed)

Section 8A.504 - Set Off Procedure
871 IAC 25.16 - Income Tax Offset

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated October 19, 2006, reference 04, which held that a vendor payment of \$253.50 is being withheld to be applied to her overpayment of unemployment benefits leaving a balance owing of \$3,353.

A telephone hearing was scheduled and held on November 20, 2006, pursuant to due notice. The claimant participated. Neil Anderson, Investigator, participated for Iowa Workforce Development.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses, and having considered all of the evidence in the record, finds that: The claimant had an outstanding overpayment of unemployment benefits in the amount of \$3,403 due to a department decision dated November 17, 2005 that has now been affirmed (See Appeal# 06-IWDUI-205). The claimant made a repayment of \$50 on February 15, 2006.

The claimant is a child-care provider. The department of Human Services owed the claimant the amount of \$253.50 for services rendered. The vendor payment of \$253.50 (less a \$7 transfer fee) was withheld by Iowa Workforce Development to apply against the outstanding overpayment of unemployment benefits.

The claimant did not have an agreement with the department regarding a repayment of the overpayment that was effective at the time of the vendor offset, and the claimant had not been making regular payments to repay the overpayment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 8A.504 Setoff procedures provides:

1. *Definitions.* As used in this section, unless the context otherwise requires:
 - a. *"Collection entity"* means the department of administrative services and any other other state agency that maintains a separate accounting system and elects to establish a debt collection setoff procedure for collection of debts owed to the state or its agencies.

871 IAC 25.16 provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of a least \$50 is subject to an offset against the individual's payment from the state to recover all or a part of the individual's overpayment of benefits and to reimburse the department of revenue and finance for administrative costs to execute the offset. All payments, whether fraud or nonfraud, are included in this process.

(3) In the case of a joint income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. If the request for the refund is not made timely, the entire income tax refund becomes subject to offset.

The administrative law judge concludes that Iowa Workforce Development is authorized to withhold and collect claimant's vendor payment in the amount of \$253.50 to apply against an outstanding overpayment of benefits of \$3,353 pursuant to the law sections cited above. The claimant did make a \$50 payment in February 2006, but she failed to honor the repayment agreement, which allows the department to withhold and offset her vendor payment from the department of social services.

DECISION;

The decision of the representative dated October 19, 2006, reference 04, is **AFFIRMED**. The department is authorized to withhold and collect the \$253.50 vendor payment to apply against the outstanding \$3,353 overpayment.

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