

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

TINA B IWEN HERFEL
Claimant

APPEAL NO. 11A-UI-04080-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/27/01
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Benefit Overpayment
871 IAC 25.16 – Offset of State Income Tax Refund

STATEMENT OF THE CASE:

Claimant appealed a representative's decision dated March 28, 2011, reference 01, that concluded claimant's Iowa income tax refund was going to be withheld to apply to an overpayment of unemployment insurance benefits which the claimant owed to Iowa Workforce Development. A telephone hearing was scheduled and held on April 23, 2011, pursuant to due notice. Claimant did participate.

ISSUE:

The issue is whether the withholding of the income tax refund to recover the prior overpayment is valid.

FINDINGS OF FACT:

Having reviewed the administrative record, the administrative law judge finds: The claimant was notified by a representative's decision that claimant was overpaid unemployment insurance benefits. The decision has become final. The state treasurer has notified the Iowa Workforce Development Department that the claimant has an income tax refund for at least \$50.00. Claimant has made no attempt to repay the amount within the preceding six months. Claimant has married since the overpayment decision and her surname is now Herfel.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the withholding of the Iowa income tax refund to recover the prior overpayment is valid. The administrative law judge concludes that it is.

Iowa Code section 421.17(29) sets forth a procedure whereby one state agency may obtain funds owed by a second state agency to an individual to apply to a debt which that same individual owes to the first state agency. 871 IAC 25.16 specifically authorizes the Iowa Workforce Development Department to withhold the state income tax refund owing to the claimant to apply to an overpayment of benefits that the same claimant owes to the Iowa Workforce Development Department so long as both amounts are at least \$50.00. The claimant

owes the Iowa Workforce Development Department at least \$50.00 in benefits she received in 2001 to which she was not entitled and has an Iowa income tax refund of at least \$50.00. Therefore, the Iowa Workforce Development Department is legally authorized to withhold that Iowa income tax refund up to the amount of the overpayment of benefits that the claimant owes to the Iowa Workforce Development Department.

DECISION:

The representative's decision dated March 28, 2011 reference 01, is affirmed. The Iowa Workforce Development Department has legal authority to withhold the Iowa income tax refund owed to the claimant to apply to the overpayment of benefits that the claimant owes to the Iowa Workforce Development Department.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/kjw