

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

ROBERT L KNUDSON

Claimant

: **APPEAL NUMBER:** 22B-UI-13618

: **ALJ HEARING NUMBER:** 22A-UI-13618

:

and

:

**EMPLOYMENT APPEAL BOARD
DECISION**

:

BREWER MEATS INC

:

:

Employer

:

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.3-7, 96.5-5

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

This case involves an overpayment of regular benefits. Unfortunately, by law, an overpayment decision of regular benefits is no fault, and the debt is not waivable. *Hiserote Homes, Inc. v. Riedemann*, 277 N.W.2d 911, 915 (Iowa 1979); *Powell v. Employment Appeal Bd.*, 861 NW 2d 279, 281 (Iowa App. 2014); *Sievertsen v. Employment Appeal Board*, 483 N.W.2d 818 (Iowa 1992); *Bailey v. Employment Appeal Board*, 518 N.W.2d 369 (Iowa 1994); *compare* 67 G.A. ch. 1059, §3 with 68 G.A. ch 33, §§1-5.

Since the Claimant was assessed an overpayment, but certainly is not guilty of misrepresentation, IWD's option for collection are limited by regulation. IWD can recover from future unemployment benefits, it can recover from an income tax refund, a federal income tax refund, a lottery prize, or a vendor payment. 871 IAC 21.1(1)(b)(2); 871 IAC 25.8(1); 871 IAC 25.16. The Claimant is not currently on benefit status and has no requalifying wages at this time. He could not be on benefit status until he reattaches to the labor market by getting another job. Until this happens recovery from future benefits is not possible. Unless the Claimant becomes a state vendor due payments from the state, he faces no collection possibility from this avenue. As for winning the lottery, clearly if the Claimant wins the lottery, he has no reason to be concerned. This means

that the Department will, by regulation send demand letters, and seek to work out a repayment plan, but can generally only intercept future benefits, vendor payments, and tax refunds. 871 IAC 25.8(1). Remedies like a lien are reserved for misrepresentation cases, which this definitely is not. 871 IAC 25.8(2)(b); Iowa Code §96.14(3).

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv