

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACOB O HUFF
Claimant

APPEAL NO: 11A-UCFE-00042-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/10/11
Claimant: Appellant (2)**

Section 96.3- 9 – Child Support Intercept

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 2, 2011, reference 01, that held the department shall deduct child support owed by claimant from benefit payments on his June 5, 2011 unemployment claim. A telephone hearing was held on October 5, 2011. The claimant, and Attorney, Alice Horneber, participated. Claimant Exhibits A, B and C was received as evidence.

ISSUE:

The issue is whether the department is authorized to withhold child support from claimant's unemployment benefit.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record with the claimant stipulation of the record and finds: The claimant was the subject of a paternity action filed in the District Court of Iowa in and for Woodbury County. The court issued an Order dismissing the case for lack of jurisdiction as neither party was a resident of the state of Iowa included the child support recovery action. The Iowa Department of Human Services (DHS) had relied upon the paternity action to have an ex-parte Order issued to require the department to withhold child support from claimant's unemployment benefit. This is an Iowa regular unemployment claim and it does not involve claimant wages from either the state where he resides (Nebraska) or where the mother and child reside (South Dakota). The paternity action has been re-filed in the State of South Dakota, and claimant has filed a motion in Iowa District Court to set aside the DHS ex-parte Order for child support.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-9-b-c provides:

96.3 Payment—determination—duration—child support intercept.

9. Child support intercept.

b. However, if the child support recovery unit and an individual owing a child support obligation reach an agreement to have specified amounts deducted and withheld from the individual's benefits and the child support recovery unit submits a copy of the agreement to the department, the department shall deduct and withhold the specified amounts.

c. However, if the department is notified of income withholding by the child support recovery unit under chapter 252D or section 598.22 or 598.23 or if income is garnisheed by the child support recovery unit under chapter 642 and an individual's benefits are condemned to the satisfaction of the child support obligation being enforced by the child support recovery unit, the department shall deduct and withhold from the individual's benefits that amount required through legal process.

Notwithstanding section 642.2, subsections 2, 3, 6, and 7, which restrict garnishments under chapter 642 to wages of public employees, the department may be garnisheed under chapter 642 by the child support recovery unit established in section 252B.2, pursuant to a judgment for child support against an individual eligible for benefits under this chapter.

Notwithstanding section 96.15, benefits under this chapter are not exempt from income withholding, garnishment, attachment, or execution if withheld for or garnisheed by the child support recovery unit, established in section 252B.2, or if an income withholding order or notice of the income withholding order under section 598.22 or 598.23 is being enforced by the child support recovery unit to satisfy the child support obligation of an individual who is eligible for benefits under this chapter.

The administrative law judge concludes that the department does not have jurisdiction to enforce any action regarding a claimant child support issue, because the Iowa District Court has issued an Order dismissing the paternity action that is the underlying basis for the ex-parte DHS Order.

Although the Iowa law requires the department to withhold child support from unemployment earnings, the DHS Order requesting the department to do so in this case was voided by the District Court Order for lack of jurisdiction. This means the Order is not enforceable from the date the department began collecting child support payments effective June 5, 2011.

DECISION:

The department decision dated September 2, 2011, reference 01, is reversed. The department is not allowed to deduct and withhold child support from claimant's unemployment benefit effective June 5, 2011.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css