

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANA E LEWIS
Claimant

APPEAL NO: 11A-UI-02211-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/29/04
Claimant: Appellant (1)

Iowa Code § 421.17(29) – Offset of State Income Tax Refund
871 IAC 25.16 – Offset of State Income Tax Refund
Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 17, 2011 determination (reference 01) that informed him that his Iowa income tax refund was being withheld to offset a previously established overpayment. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the Department has the authority to use the claimant's state income tax refund to offset a previously established overpayment.

ISSUE:

Does the Department have the legal authority to withhold the claimant's Iowa income tax refund to recover a previously established overpayment?

FINDINGS OF FACT:

The claimant established claims for benefits during the week of February 16, 2003 and a subsequent claim during the week of February 29, 2004. Sometime after May 2004, the Department determined the claimant had not correctly reported wages he earned in various weeks from January 3 through May 29, 2004. When the claimant learned about this problem, he agreed he may not have correctly reported some wages because of the way his employer pulled his timecard and paid him. The claimant agreed he may have been overpaid a few hundred dollars but not \$1,126.00 the Department held he had been overpaid. The record shows a hearing was held before an administrative law judge on December 20, 2004. Even though the claimant did not participate at the hearing, a decision was issued on December 23, 2004. This decision held the claimant overpaid \$1,126.00 in benefits he received for various weeks from December 26, 2004 through May 29, 2004. See decision for 04-IWDUI-224. This decision was not appealed.

The claimant did not know about the administrative law judge's decision because he moved. Even though the claimant provided the Department with the new address when he moved, the

Department did not send any mail, decision or billing statements to the claimant's new address. In 2010, the claimant did not make any payment to the Department to repay the overpayment.

The claimant's 2010 Iowa state income tax refund is more than \$50.00.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 which that 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 \$1,226.00 in benefits he received in 2004. The amount of overpayment was made by an administrative law judge in a December 23, 2004 decision. In 2010, the claimant did not make any payment to offset or reduce the overpayment. He has an Iowa income tax refund for 2010 of at least \$50.00. The Department as the legal authority to use the claimant's 2010 Iowa state income tax refund to offset the previously established overpayment.

DECISION:

The representative's February 17, 2011 determination (reference 01) is affirmed. The Department has the legal authority to use the claimant's 2010 Iowa income tax refund to offset the previously established overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css