

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN L REYNOLDS
Claimant

APPEAL NO. 08A-UI-06297-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08-01-93 R: 04
Claimant: Appellant (2)**

871 IAC 25.16 - Offset of State Payments

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 3, 2008, reference 01, decision which gave notice that an Iowa vendor payment was going to be withheld to apply to an overpayment of unemployment insurance benefits that the claimant owed to Iowa Workforce Development, formerly known as Job Service. After due notice was issued, a hearing was scheduled to be held by telephone conference call on July 23, 2008. The claimant did participate. Claimant's exhibits one through five were entered and received into the record.

FINDINGS OF FACT:

Having reviewed the administrative record, the administrative law judge finds: The claimant was notified by a representative's decision dated July 3, 2008 that a vendor payment to him in the amount of \$353.29 was going to be withheld to apply towards a previous overpayment of unemployment insurance benefits he received. The overpayment amount was \$2,176.00. The claimant did not appeal the decisions of March 3, 1994 and March 3 1994, which determined the claimant was overpaid unemployment insurance benefits. Each of the decisions has become final.

The claimant indicated that the payment he is to receive is from the Department of Human Services and is a Family Support Subsidy Payment being made to him on behalf of his minor daughter.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the withholding of the Iowa vendor payment to recover the prior overpayment is valid. The administrative law judge concludes that it is not.

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 vendor payments 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.

However, Iowa Code section 225C.39 provides: Family support subsidy payment shall not be alienable by action, including but not limited to, assignment, sale, garnishment, or execution and in the event of bankruptcy shall not pass to or through a trustee or any other person acting of behalf of creditors. Based on this section, the administrative law judge concludes that the family support payment made to the claimant is not subject to offset for his overpayment of unemployment insurance benefits. Therefore, the Iowa Workforce Development Department is not authorized to withhold the Iowa vendor payment in the amount of \$353.29 which shall be released to the claimant.

DECISION:

The representative's decision dated July 3, 2008, reference 01, is reversed. The Iowa Workforce Development Department has no legal authority to withhold this vendor payment to claimant to apply to the overpayment of benefits that he owes to the Iowa Workforce Development Department.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw