

IOWA DEPARTMENT OF INSPECTIONS AND  
APPEALS  
Division of Administrative Hearings  
Wallace State Office Building  
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**WILLIE L. DEAN**  
**228 S. PINE STREET**  
**DAVENPORT, IA 52802**

**INVESTIGATION AND RECOVERY**  
**IOWA WORKFORCE DEVELOPMENT**  
**1000 EAST GRAND AVENUE**  
**DES MOINES IA 50319-0209**

JOE WALSH, IWD

**Appeal Number:** 11-IWDUI-128  
**OC:** 02/06/11  
**Claimant:** Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>TH</sup> Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

July 20, 2011

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(Decision Dated & Mailed)

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Section 96.5-8 - Administrative Penalty  
871 IAC 25.9(2) - Penalties

### **STATEMENT OF THE CASE**

Claimant Willie L. Dean filed an appeal from an Iowa Workforce Development Department decision dated March 1, 2011, reference 01, which disqualified him from receiving benefits for the period from February 20, 2011 until the end of his benefit year on February 4, 2012, as an administrative penalty for false statements made to receive unemployment insurance benefits.

Hearing was scheduled for July 20, 2011, and due notice was sent to all parties. The notice of hearing sent to the claimant at his address of record was not returned in the mail as undelivered. This notice of hearing was sent to the address on the decision

being appealed. This appeal proceeded to a hearing by telephone on July 20, 2011, before Administrative Law Judge Robert H. Wheeler. Investigator Irma Lewis appeared and testified on behalf of Iowa Workforce Development. Appellant Willie L. Dean failed to appear. The hearing was conducted in his absence. Exhibits 1 – 14, and A - D entered the record without objection.

### **FINDINGS OF FACT**

The department conducted audits and investigations on claims for benefits made by Willie L. Dean, dating back to 1998. (Exhibits A - D). On June 4, 2010, Iowa Workforce Development issued a decision that Mr. Dean was over paid benefits in the amount of \$4,623 for the thirteen weeks between February 7, 2010, and May 15, 2010, due to false reporting of earnings. Mr. Dean did appeal that decision, and an administrative law judge upheld the decision. Mr. Dean wrote a letter to IWD that admitted his receipt of overpaid benefits through his false reporting. (Exhibits 5, 7, 14; Lewis testimony).

IWD referred Mr. Dean to law enforcement authorities for prosecution, and he pled guilty to a criminal offense for fraud. (Lewis testimony). Mr. Dean signed an agreement to repay IWD the sum of \$17,221.

Mr. Dean had prior overpayment cases in 1998, 1999, 2002 and 2005, as well as a prior administrative penalty in 1999. (Exhibits A – D; Lewis testimony).

When a final decision indicates an overpayment due to false statements, IWD “flags” the account in the event a future claim is made. (Lewis testimony). Mr. Dean subsequently filed a new claim for benefits on February 6, 2011, and on March 1, 2011, the decision under appeal issued, imposing an administrative penalty disqualifying Mr. Dean from receiving benefits until the end of his benefit year. (Exhibit 1; Lewis testimony).

### **CONCLUSIONS OF LAW**

The issue in this appeal is whether the department correctly imposed an administrative penalty disqualifying Willie L. Dean from receiving unemployment insurance benefits for the period commencing February 20, 2011 until the end of his benefit year on February 4, 2012.

In the absence of the appellant, the presiding officer chose to proceed with the hearing, take evidence and render a decision pursuant to Iowa Code 17A.12(3).

Iowa law provides for imposition of an administrative penalty when it is determined that an individual has, within the 36 months prior to a claim for unemployment benefits, willfully and knowingly failed to disclose a material fact with the intent to obtain benefits to which he or she is not entitled. The penalty consists of a forfeiture of benefits for no longer than the remaining benefit period. The administrative penalty is to be imposed in addition to all other applicable penalties. Iowa Code section 96.5-8.

The department has adopted rules for the implementation of administrative penalties.

Those rules stress that each case must be decided on its merits and that the degree and severity of the penalty is to be determined at the discretion of the investigator. 871 IAC 25.9(2)(b), 25.9(2)(c)(1). The penalty for falsification ranges from three weeks through the end of the benefit year. 871 IAC 25.92)(b).

Here, Mr. Dean was the subject of numerous overpayment decisions based on his failure to report earned wages to the department. He admitted his fraud, and he pled guilty to a crime based on his actions. Mr. Dean did not appear for the hearing to offer an explanation for his extensive history of receiving overpaid unemployment insurance benefits through false statements.

Iowa law clearly provides for the imposition of the administrative penalty under the facts of Mr. Dean's case and specifically provides for an administrative penalty in addition to all other applicable penalties. Investigator Lewis testified to the decision process regarding the length of this administrative penalty, and such a decision rests in the investigator's discretion. In this case the maximum penalty reflects the fact that Mr. Dean has a long history of fraud to receive improper benefits and a criminal conviction based on his previous overpayment cases. The administrative penalty imposed by the department must stand.

### **DECISION**

The decision of Iowa Workforce Development dated March 1, 2011, reference 01 is **AFFIRMED**. Willie L. Dean is disqualified from receiving benefits for the period from February 20, 2011 through February 4, 2012, as an administrative penalty for false statements to receive unemployment insurance benefits.

rhw