

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA M TUCKER
Claimant

APPEAL NO: 10A-UI-02032-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/31/09
Claimant: Appellant (1)

871 IAC 25.16 – Offset of State Income Tax Refund

STATEMENT OF THE CASE:

The claimant appealed a representative's January 27, 2010 decision (reference 04) that concluded the Department had authorization to withhold her Iowa state income tax refund and use it to offset a previously established unemployment insurance overpayment. A telephone hearing was held on March 6, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant has an outstanding overpayment of unemployment insurance benefits of \$1,050.00. This overpayment was established in 2008 based on benefits the claimant had received in 2007. The claimant made some payments in 2008 to repay the overpayment, but has not paid anything the last six months.

On January 27, 2010, a decision was sent to the claimant notifying her that Iowa Workforce Development Department requested that her Iowa income tax refund be withheld to apply to the outstanding overpayment of unemployment insurance benefits.

The claimant needs her state income tax refund to pay her rent. The claimant asks that the Department only use half of her income tax refund check to offset the previously established overpayment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 421.17(29) sets forth a procedure where one state agency may obtain funds owed by a second state agency to an individual and those funds can be applied to a debt, which that

individual owes to the first state agency. 871 IAC 25.16 specifically authorizes the Iowa Workforce Development Department to withhold a state income tax refund owed to the claimant and apply the refund to a previously established overpayment as long as both amounts are at least \$50.00.

An individual who is owed a payment from the state of at least \$50.00 and owes an overpayment of benefits of at least \$50.00 is subject to an offset against the individual's payment from the state to recover all or a part of the individual's overpayment of benefits and to reimburse the department of revenue and finance for administrative costs to execute the offset. All overpayments, whether fraud or no fraud, are included in this process.

(1) If the individual has made no attempt to repay the overpayment of benefits within the preceding six months, the individual's name and social security number are given to the department of revenue and finance.

(2) The department of revenue and finance notifies the department that an overpaid individual is owed a payment from the state. The department then notifies the overpaid individual of the potential offset against the individual's payment from the state.

(4) Any appeal by the individual is limited to the validity of job service's authority to recoup the overpayment through offset. 871 IAC 25.16.

Based on the above rule and statute, the Department has the authority to recoup the overpayment of benefits by offsetting it against the claimant's Iowa state income tax refund. The outstanding overpayment is more than \$50.00, and the claimant has made no effort to repay any part of the overpayment within the last six months.

DECISION:

The representative's January 27, 2010 decision (reference 04) is affirmed. The Department has the authority to recoup the overpayment of benefits by withholding her Iowa state income tax refund and using it to offset a previously established overpayment.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css