

IN THE UTAH COURT OF APPEALS

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Nagendra Dev,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner,)	
)	Case No. 20100031-CA
v.)	
)	
Department of Workforce)	F I L E D
Services, Workforce Appeals)	(September 10, 2010)
Board,)	
)	2010 UT App 250
Respondent.)	

Original Proceeding in this Court

Attorneys: Nagendra Dev, Salt Lake City, Petitioner Pro Se
 Jaceson R. Maughan, Salt Lake City, for Respondent

Before Judges Orme, Voros, and Christiansen.

PER CURIAM:

Nagendra Dev asserts that the Workforce Appeals Board erred in assessing a civil penalty against him because there is no statutory authority to support such a penalty. We affirm.

Dev asserts that the Department of Workforce Services (the Department) had no authority to impose a civil penalty in conjunction with a fraud overpayment because Utah Code section 35A-4-406(4), which discusses repayment of benefits fraudulently received, contains no language allowing such penalties. See Utah Code Ann. § 35A-4-406(4) (2005). Dev is correct that this section of the code contains no authorization for such penalties. However, the Department's authority to impose and collect a civil penalty in fraud overpayment cases is contained in Utah Code section 35A-4-405(5)(c). See id. § 35A-4-405(5)(c) (Supp. 2010). The subsection states in relevant part: "Each claimant found in violation of this Subsection (5) shall repay to the division the overpayment and, as a civil penalty, an amount equal to the

overpayment." Id. § 35A-4-405(5)(c)(i). Therefore, the Department had the authority to impose the civil penalty.

Affirmed.

Gregory K. Orme, Judge

J. Frederic Voros Jr., Judge

Michele M. Christiansen, Judge