

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENIECE R SMITH
Claimant

APPEAL 22A-UI-06285-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 05/10/20
Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.11(16) – Tax Refund Offset

STATEMENT OF THE CASE:

On March 11, 2022, claimant Deniece R. Smith filed an appeal from the March 3, 2022 (reference 07) decision that allowed claimant's overpayment to be withheld from claimant's Iowa income tax refund. Claimant was properly notified of the hearing. A telephone hearing was held at 9:00 a.m. on Wednesday, April 20, 2022. Claimant Deniece R. Smith personally participated. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant was overpaid benefits.

Whether the agency can withhold the claimant's state income tax refund to offset an established overpayment of unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed a claim for unemployment insurance benefits effective January 15, 2017. In connection with this claim, claimant was paid \$180.00 in benefits and was later found to have been ineligible for these benefits. Iowa Workforce Development entered a decision (reference 07) finding claimant was overpaid \$180.00 in unemployment insurance benefits and claimant did not appeal that decision.

Claimant filed a claim for unemployment insurance benefits again, this time effective May 10, 2020. In connection with this claim, claimant was paid \$5,087.00 in benefits and was later found to have been ineligible for these benefits. Iowa Workforce Development entered a decision (reference 04) finding claimant was overpaid \$5,087.00 in unemployment insurance benefits and that decision has been affirmed by both an administrative law judge and the Employment Appeal Board.

Claimant filed her 2021 state income taxes in Iowa. She is eligible for a tax return in the state of Iowa.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Iowa Code § 8A.504(1)(2) provides, in pertinent part, the following setoff procedures:

f. (1) Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency's assertion of its rights to all or a portion of the payment and of the state agency's entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person's opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the collection entity. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.

Iowa Code § 96.11(16) provides:

16. Reimbursement of setoff costs. The department shall include in the amount set off in accordance with section 8A.504, for the collection of an overpayment created pursuant to section 96.3, subsection 7, or section 96.16, subsection 4, an additional amount for the reimbursement of setoff costs incurred by the department of administrative services.

Iowa Admin. Code r. 871-25.16(1-5) provides:

State payment offset. 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 for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(1) The individual's name and social security number are given to the department of revenue.

(2) The department of revenue 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.

(3) In the case of a joint or combined income tax filing, the individual has ten days from the postmark date on the decision to request a split of the refund to ensure the other party's portion of the refund is not offset. When a request is made, the department notifies the department of revenue to make the split. The department then notifies the overpaid individual of the amount of the offset. If the request for split of the refund is not made timely, the entire income tax refund becomes subject to offset.

(4) Any appeal by the individual is limited to the validity of the department's authority to recoup the overpayment through offset.

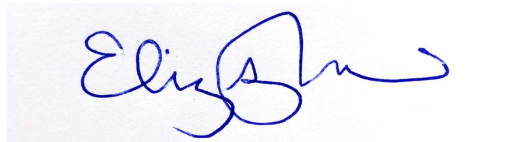
(5) In the event that the amount of the offset exceeds the remaining overpayment, the department shall issue to the individual a special check equal to the amount of the excess.

This rule is intended to implement Iowa Code section 96.11 and 421.17(26,29).

Claimant owes Iowa Workforce Development \$5,267.00 in unemployment insurance benefits that claimant received and to which claimant was not entitled. Claimant has an Iowa income tax refund of at least \$50.00. Therefore, Iowa Workforce Development is legally authorized to withhold the Iowa income tax refund up to the amount of the overpayment of benefits, plus a \$7.00 transfer fee.

DECISION:

The March 3, 2022 (reference 07) unemployment insurance decision is affirmed. Iowa Workforce Development has legal authority to withhold the Iowa income tax refund owed to claimant to apply to the overpayment of benefits that claimant owes to Iowa Workforce Development.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

April 21, 2022
Decision Dated and Mailed

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