

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**IRMA G PLUNKET**  
Claimant

**APPEAL NO: 13A-UI-02263-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 02/12/06**  
**Claimant: Appellant (1)**

Section 8A.504 – Debt Setoff Procedures  
Section 96.11-15 – Debt Setoff Cost  
871 IAC 25.15 – Income Tax Offset

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 7, 2013, reference 02, that held your Iowa income tax refund is being withheld to repay a benefit overpayment. A telephone hearing was held on March 22, 2013. The claimant participated.

**ISSUE:**

The issue is whether claimant's Iowa tax refund can be withheld to repay a UI benefit overpayment.

**FINDINGS OF FACT:**

The administrative law judge having heard the claimant's testimony and having considered the evidence in the record, finds: The department record shows claimant filed a UI benefit claim effective February 13, 2005. The record further shows she has an outstanding UI benefit overpayment in the amount of \$1,193.92 on this claim. The overpayment occurred during a period from July 30, 2005 through November 19, 2005 and the total amount was \$1,942.92. The department withheld claimant's \$300.00 Iowa tax refund in April 2008 and \$449.00 Iowa tax refund in April 2012 that reduced the overpayment amount from \$1,942.92 to \$1,193.92.

The department record shows it issued a decision date February 16, 2012, reference 01, when it withheld claimant's \$449.00 Iowa tax refund and she did not appeal.

The department record also shows claimant has a separate UI benefit overpayment of \$1,184.00 on her February 12, 2006 UI claim that occurred during a period from February 18, 2006 through April 8, 2006. The remaining outstanding overpayment balance of \$1,193.92 on the February 13, 2005 UI claim when added to \$1,184.00 on the February 12, 2006 claim means claimant outstanding overpayment totals \$2,377.92 pending the offset procedure in this matter.

Claimant is contending the prior Iowa refund tax offsets went towards payment of fines at a local courthouse. She acknowledges she has a current refund withheld that exceeds \$2,000.00.

### **REASONING AND CONCLUSIONS OF LAW:**

Section 96.11-15 Reimbursement of Setoff Costs. The department shall include in the amount of setoff in accordance with section 8A.504 for collection of an overpayment created pursuant to section 96.3-7 or 96.16-4 an additional amount for the reimbursement of setoff costs incurred by Department of Administrative Services.

871 IAC 25.16 provides:

State payment offset. An individual who is owed a payment from the state of at least \$50 and owes an overpayment of benefits of at least \$50 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 nonfraud, 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.

(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 and finance 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 job service'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 sections 96.11 and 421.17(26,29).

The administrative law judge concludes the department has the authority to apply claimant's Iowa tax refund against her outstanding UI benefit overpayment on her 2005 and 2006 UI claims that total \$2,377.92 as of the date of this hearing.

The department record is more credible than claimant's testimony on the department offset procedure. It shows the UI benefit claims and the period during which the overpayment occurred in conjunction with two prior Iowa income tax refund offsets (\$300.00 and \$449.00). Claimant did not appeal this procedure or the February 16, 2012 department decision.

Claimant admits receiving a recent overpayment statement that she has an outstanding overpayment exceeding \$2,000.00. If claimant does believe the department has incorrectly determined the outstanding overpayment in any respect, she can make an appointment with her local Workforce center and provide documentation to prove it.

**DECISION:**

The department decision dated February 7, 2013, reference 02, is affirmed. The department has the authority to withhold claimant's Iowa income tax refund to collect and repay an outstanding UI benefit overpayment.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/tll