

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALEXIS COLE
Claimant

APPEAL NO. 22A-UI-04701-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/15/20
Claimant: Appellant (1R)

Iowa Code § 8A.504 – Setoff Procedures
Iowa Code § 96.11(16) – Reimbursement of Setoff Costs
Iowa Admin. Code 871-25.16 – State Payment Offset

STATEMENT OF THE CASE:

On February 15, 2022, Alexis Cole (claimant/appellant) appealed the Iowa Workforce Development (“IWD”) decision dated February 7, 2022 (reference 05) that notified claimant that an overpayment of unemployment insurance benefits would be withheld from claimant’s Iowa income tax refund.

A telephone hearing was held on March 28, 2022, pursuant to due notice. Claimant participated personally. The administrative law judge took official notice of the administrative record.

ISSUE:

Can the agency withhold the claimant’s state income tax refund to offset an established overpayment of unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed the administrative record, the administrative law judge finds:

A representative’s decision dated April 21, 2021 (reference 04) notified claimant of an overpayment of Federal Pandemic Unemployment Compensation in the amount of \$900.00. Claimant appealed that decision and it was affirmed by an administrative law judge in a decision July 22, 2021. A representative’s decision dated April 22, 2021 (reference 03) notified claimant of an overpayment of unemployment insurance benefits (UI) in the amount of \$3,719.00. Claimant appealed that decision and it was affirmed by an administrative law judge in a decision July 22, 2021. Those decisions were not appealed further to the Employment Appeal Board. Those decisions are therefore final and remain in force at this time.

The overpayment balances are still outstanding. Claimant states she has requested a waiver of the overpayment amounts but has yet to receive a determination from IWD regarding the waiver request. The administrative record is devoid of information regarding whether or not a waiver has been requested or granted. Claimant did not file a joint or combined return.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set for the below, the administrative law judge concludes the agency may withhold the claimant's state income tax refund to offset an established overpayment of unemployment insurance benefits, so long as claimant has an Iowa income tax refund of at least \$50.00.

Iowa Code §8A.504 provides in relevant part:

2. Setoff procedure. The collection entity shall establish and maintain a procedure to set off against any claim owed to a person by a public agency any liability of that person owed to a public agency, a support debt being enforced by the child support recovery unit pursuant to chapter 252B, or such other qualifying debt.

Iowa Code § 96.11(16) provides:

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 871-25.16 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 for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

25.16(1) The individual's name and social security number are given to the department of revenue.

25.16(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.

25.16(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.

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

25.16(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).

Iowa Code section 421.17(27) sets forth a procedure whereby one state agency may obtain funds owed by a second state agency to an individual to apply to a debt, which that same individual owes to the first state agency. Iowa Admin. Code r. 871-25.16 specifically authorizes Iowa Workforce Development to withhold the state income tax refund owing to the claimant to apply to an overpayment of benefits which that same claimant owes to Iowa Workforce Development so long as both amounts are at least \$50.00. Iowa Code section 96.11(16) allows reimbursement of setoff costs.

The claimant owes an outstanding overpayment of \$4,619.00 to IWD. Assuming claimant has an Iowa income tax refund of at least \$50.00, IWD is legally authorized to withhold that Iowa income tax refund up to the remaining amount of the overpayment of benefits, including a \$7.00 transfer fee.

DECISION:

The administrative law judge concludes the agency may withhold the claimant's state income tax refund to offset an established overpayment of unemployment insurance benefits, so long as claimant has an Iowa income tax refund of at least \$50.00.

REMAND:

This matter is remanded for processing of claimant's overpayment waiver application. A determination on that should be made prior to withholding claimant's Iowa income tax refund, as that may impact the outstanding overpayment amount and thus the proper amount that can be withheld.



Andrew B. Duffelmeyer
Administrative Law Judge

March 31, 2022
Decision Dated and Mailed

abd/abd