

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD L BEARD
Claimant

APPEAL NO. 13A-UI-05960-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/31/13
Claimant: Appellant (1)**

20 CFR 616.8(E) – Recovery of Illinois Overpayment

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated May 8, 2013, reference 01, that held the State of Iowa is withholding \$ 534.00 UI benefits from his claim to pay Illinois an overpayment in that amount. A hearing was held on June 26, 2013. The claimant did not participate.

ISSUE:

The issue is whether Iowa may withhold claimant benefits to pay an Illinois overpayment.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record finds that: Claimant filed an Iowa UI claim effective March 31, 2013. The State of Illinois notified the department claimant had a \$534.00 overpayment in that state and it requested Iowa to seek repayment.

The department withheld \$411.00 from claimant's UI benefit for the week ending May 4 as a payment on the Illinois overpayment, and it issued a decision in this matter that claimant appealed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7, as amended in 2008, provides:

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.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The administrative law judge concludes that the claimant has an Illinois overpayment of benefits of \$534.00 that is collectible by Iowa pursuant to 20 CFR 616.8(e) by department offset procedure.

The law provides that an out of state jurisdiction has the right to request another state withhold UI benefits in order to repay an outstanding overpayment. Illinois notified Iowa that claimant has a \$534.00 overpayment in its jurisdiction and Iowa is required to withhold that amount from claimant's March 31, 2013 claim to repay it.

DECISION:

The decision of the representative dated May 8, 2013, reference 01, is affirmed. Iowa is required by law to withhold \$534.00 from claimant UI benefits to repay an Illinois overpayment.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css