

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PEARL A PHILP
Claimant

APPEAL NO. 14A-UI-02921-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/19/10
Claimant: Appellant (1)

871 IAC 25.16 - Income Tax Offset

STATEMENT OF THE CASE:

Pearl Philp filed a timely appeal from the March 6, 2014, reference 06, decision that a prior overpayment of unemployment insurance benefits was being withheld from her Iowa income tax refund. After due notice was issued, a hearing was held on April 8, 2014. Ms. Philp participated. Exhibit A was received into evidence. The administrative law judge took official notice of the agency's record of benefits disbursed to the claimant (DBRO). The administrative law judge took official notice of the October 14, 2010, reference 05, overpayment decision and of the administrative law judge decision on Appeal Number 10A-UI-14616-AT, which affirmed the overpayment decision.

ISSUE:

Whether Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to offset or recover a prior overpayment of unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Pearl Philp has an outstanding \$4,257.00 overpayment of unemployment insurance benefits that includes \$3,717.00 for the period of March 21, 2010 through May 22, 2010. Ms. Philp has not made any attempt to repay the overpayment of benefits within the last six months.

Ms. Philp filed a 2013 Iowa joint income tax return with her husband and the couple was due a refund. None of the wages reported on the tax return and none of the income tax withholding amount is from employment held by Ms. Philp. Ms. Philp has not been employed since 2010 and is currently receiving Social Security Disability Insurance benefits. The amount of Ms. Philp's overpayment exceeds the amount of the Iowa income tax refund. On March 6 2014, a decision was sent to Ms. Philp that notified her that Iowa Workforce Development was requesting that her Iowa income tax refund be withheld and applied to an outstanding overpayment of unemployment insurance benefits. Ms. Philp indicates that she followed the instructions on that decision and notified the Payment Control Section in writing that none of the 2013 taxed wages were from work performed by Ms. Philp.

REASONING AND CONCLUSIONS OF LAW:

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.

Based on this rule and Iowa Code section 8A.504, the Iowa Workforce Development has the authority to recoup the overpayment of benefits by offset against the claimant's Iowa state income tax refund. The outstanding overpayment was more than \$50.00, and no effort had been made to repay the overpayment within the last six months. If Ms. Philp has indeed followed the instructions on March 6, 2014, reference 06, offset decision and has notified the Payment Control Section in writing that none of the 2013 taxed wages were from work performed by Ms. Philp, then she can look forward to subsequent notice of an appropriate proportional split of the income tax refund. Otherwise, the entire refund amount will be subject to offset to recover the outstanding overpayment of unemployment insurance benefits.

DECISION:

The March 6, 2014, reference 06, decision is affirmed. Iowa Workforce Development has authority to withhold the claimant's 2013 Iowa income tax refund.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css