JANET S HACHMEISTER Claimant **IOWA WORKFORCE** **DEVELOPMENT DEPARTMENT**	**APPEAL 22A-UI-06770-JC-T** **ADMINISTRATIVE LAW JUDGE** **DECISION** **OC: 04/05/20** **Claimant: Appellant (1)**

Iowa Code § 8A.504 – Setoff Procedures (IDAS)
Iowa Admin. Code r. 871-25.16 – State Income Tax Refund Offset
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant/appellant, Janet S. Hachmeister, filed an appeal from the March 24, 2022 (reference 04) Iowa Workforce Development ("IWD") unemployment insurance decision that denied benefits. After proper notice, a telephone hearing was held on April 27, 2022. The claimant participated personally. The claimant was represented by Jason Hackmeister. Official notice of the administrative record was taken. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Does the claimant have an overpayment of unemployment insurance benefits?
Is the withholding of the claimant's state income tax refund to offset a prior overpayment of benefits authorized?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established a claim for regular unemployment insurance benefits with an effective date of April 5, 2020.

Claimant filed for and received $4,480.00 in regular unemployment insurance benefits for the period between April 5, 2020 and July 25, 2020. Claimant also received supplemental Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of $9,600.00 for the period between April 5, 2020 and July 25, 2020.

A reference 01 initial decision denied benefits to claimant on the basis of being on a leave of absence. The claimant appealed the decision and the denial was affirmed in Appeal 20A-UI-09725-B2-T. Thereafter, IWD issued two decisions (reference 02 and 03) which concluded claimant was overpaid both regular and FPUC benefits due to the denial of regular unemployment insurance benefits. The claimant appealed the decisions.

Between the time claimant was denied regular unemployment insurance benefits and had hearings for the overpayments, she was approved for Pandemic Unemployment Assistance (PUA) benefits, retroactively to April 4, 2020. For any week claimant was eligible for PUA benefits, she would also be entitled to FPUC benefits.

As a result of the overpayment hearings, the initial decision concluding claimant was overpaid regular unemployment insurance benefits was affirmed in Appeal 21A-UI-17024-JT-T. However, with respect to the FPUC overpayment, the decision acknowledged claimant would be eligible for FPUC benefits since she was approved for PUA benefits. The issue of whether claimant's overpayments of regular and FPUC benefits would be offset through claimant's approval of PUA benefits for the same period in question was remanded to the Benefits Bureau for an investigation. As of the date of hearing for this appeal (April 25, 2022), no payments of PUA benefits had been made and it was unclear whether the Benefits Bureau had investigated the offset of overpayments in light of claimant's PUA approval.

Claimant has made no payments to repay the overpayment. On March 24, 2022, IWD notified claimant that notified claimant that due to her unpaid overpayment balance, that her 2021 state income tax refund may be reduced to recover the overpayment.

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.

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 had an unpaid overpayment balance of $2,997.00, and an Iowa income tax refund of at least $50.00.

Therefore, Iowa Workforce Development is legally authorized to withhold that Iowa income tax refund up to the remaining amount of the overpayment of benefits, not including a $7.00 transfer fee, which the claimant owes to Iowa Workforce Development.

DECISION:

The unemployment insurance decision dated March 24, 2022, (reference 04) is affirmed. Iowa Workforce Development does have legal authority to withhold the Iowa income tax refund owed to the claimant to apply to the overpayment of benefits, which that individual owes to Iowa Workforce Development.

Jennifer L. Beckman

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Jennifer L. Beckman
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May 11, 2022
Decision Dated and Mailed

jlb/scn