

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**SCOTT SZYSZKA**  
Claimant

**APPEAL NO. 22A-UI-05558-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/21/21  
Claimant: Appellant (1)**

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Iowa Code § 8A.504 – Set-off Procedures  
Iowa Code § 96.11(16) – Off-set Administrative Fee  
Iowa Admin. Code r. 871-25.16 - Income Tax Offset

**STATEMENT OF THE CASE:**

On February 28, 2022, Scott Szyszka (claimant) filed a timely appeal from the February 17, 2022 (reference 01) decision that held Iowa Workforce Development was withholding the claimant's Iowa income tax refund so that it could be offset against a prior overpayment of unemployment insurance benefits and a \$7.00 transfer fee. After due notice was issued, a hearing was held on May 9, 2022. The claimant participated. There were four appeal files set for a consolidated hearing: 22A-UI-05552-JT-T, 22A-UI-05555-JT-T, 22A-UI-05557-JT-T and 22A-UI-05558-JT-T. Exhibit A, the online appeal, and Exhibit B, Iowa Workforce Development website information pertaining to fraud overpayments. The administrative law judge took official notice of the following Agency administrative records: DBIN, KPYX, the reference 01 through 06 (o.c. 3/22/20) decisions, the reference 01 (o.c. 3/21/21) decision, the administrative law judge decisions in Appeal Numbers 21A-UI-12464-B2-T, 21A-UI-12466-B2-T and 21A-UI-12467-B2-T, the Employment Appeal Board decisions in Hearing Numbers 21B-UI-12464, 21B-UI-12466 and 22B-UI-12467, and the Agency's record of the current combined outstanding overpayment amount

**ISSUE:**

Whether Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to off-set or recover a prior overpayment of unemployment insurance benefits plus and administrative fee.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has a \$25,628.00 combined outstanding overpayment of unemployment insurance benefits. The claimant filed a 2021 Iowa income tax return and was due a refund. The claimant estimates the refund amount at \$300.00. The amount of the overpayment exceeds the amount of the Iowa income tax refund. On February 17, 2022, a decision was sent to the claimant that notified the claimant that Iowa Workforce Development was withholding the Iowa income tax

refund so that it could be applied to an outstanding overpayment of unemployment insurance benefits and a \$7.00 transfer fee.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 8A.504 provides a procedure for state agencies “to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency.” Iowa Code section 96.11(16) directs Iowa Workforce Development to assess “an additional amount for the reimbursement of setoff costs incurred by the department of administrative services.”

Iowa Administrative Code rule 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.

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

(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.

(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.

(4) Any appeal by the individual is limited to the validity of the department’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 section 96.11 and 421.17(26,29).

The claimant is owed a payment from the state of at least \$50.00 and owes an overpayment of benefits of at least \$50.00. Iowa Workforce Development has complied with the off-set procedure set forth at Iowa Code section 8A.504. Iowa Workforce Development has authority to offset the claimant’s Iowa income tax refund against the outstanding overpayment balance.

**DECISION:**

The February 17, 2022 (reference 01) decision is AFFIRMED. Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in black ink on a light gray rectangular background.

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James E. Timberland  
Administrative Law Judge

May 27, 2022  
Decision Dated and Mailed

jet/scn