

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ANN R RIESBERG**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 22A-UI-06296-LJ-T  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20  
Claimant: Appellant (2-R)**

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Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.11(16) – Tax Refund Offset

**STATEMENT OF THE CASE:**

On March 8, 2022, claimant Ann R. Riesberg filed an appeal from the March 3, 2022 (reference 04) decision that allowed claimant's overpayment to be withheld from claimant's Iowa income tax refund. Claimant was properly notified of the hearing. A telephone hearing was held at 2:00 p.m. on Wednesday, April 20, 2022. Claimant Ann R. Riesberg personally participated in the hearing. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant was overpaid benefits.

Whether the agency can withhold the claimant's state income tax refund to offset an established overpayment of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant opened a claim for regular unemployment insurance benefits effective March 29, 2020. Claimant's weekly benefit amount was \$184.00. She filed for and received regular unemployment insurance benefits in the gross amount of \$2,249.00 during her claim year. Additionally, claimant received Federal Pandemic Unemployment Compensation ("FPUC") benefits in the gross amount of \$7,800.00 during the same claim year. Claimant was found to have been overpaid these benefits in the December 11, 2020 (reference 02) decision and the May 26, 2021 (reference 03) decision, both of which were affirmed by an administrative law judge. See 21A-UI-11838-JC-T and 21A-UI-11839-JC-T. Claimant's total balance owing is \$10,049.00.

The administrative record establishes that claimant later applied for and was approved for Pandemic Unemployment Assistance ("PUA") benefits effective March 29, 2020. Claimant was awarded a weekly PUA benefit amount of \$202.00, and she was approved to receive up to thirty-nine weeks of PUA benefits. Claimant has not received these PUA benefits outright, and the PUA benefits have not been applied to offset the overpayment of regular unemployment insurance benefits with the balance paid out to the claimant. The administrative law judge notes

that FPUC benefits were payable on PUA weekly claims for the same weeks that they were payable for regular unemployment insurance weekly claims.

Claimant is entitled to receive a tax refund from the State of Iowa of at least \$50.00.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.3(7) provides, in pertinent part:

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.

Iowa Code § 8A.504(1)(2) provides, in pertinent part, the following setoff procedures:

f. (1) Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency's assertion of its rights to all or a portion of the payment and of the state agency's entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person's opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the collection entity. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.

Iowa Code § 96.11(16) provides:

16. 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 r. 871-25.16(1-5) provides:

State payment offset. An individual who is owed a payment from the state of at least \$50.00 and owes an overpayment of benefits of at least \$50.00 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).

Claimant owes Iowa Workforce Development \$10,049.00 in benefits that claimant received and to which claimant was not entitled. However, claimant is also **owed both PUA and FPUC benefits** in a combined total that exceeds the amount she owes to the agency. Therefore, the administrative law judge believes that, despite the existing overpayment decisions, the agency does not have the ultimate authority to withhold claimant's state income tax return. The tax return funds should be released to the claimant.

This matter will be remanded to the Benefits Bureau with instructions to offset PUA benefits owing to claimant against the unemployment insurance balance owing and distribute the remaining PUA funds to the claimant and to offset the PUA-affiliated FPUC funds owing to claimant against the FPUC balance owing, extinguishing the FPUC overpayment.

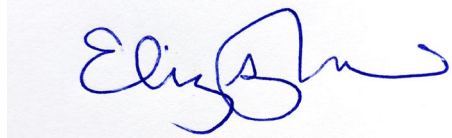
**DECISION:**

The March 3, 2022 (reference 04) unemployment insurance decision is reversed. Iowa Workforce Development does not have legal authority to withhold the Iowa income tax refund owed to claimant to apply to the overpayment of benefits that claimant owes to Iowa Workforce Development.

**REMAND:**

This matter is remanded to the Benefits Bureau for the following actions:

- Apply PUA benefits owed to claimant against UI overpayment balance owing, thus extinguishing UI overpayment balance;
- Pay remaining PUA benefits balance to claimant directly;
- Offset PUA-related FPUC benefits owed to claimant against UI-related FPUC overpayment balance owing, thus extinguishing FPUC overpayment.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

April 28, 2022  
Decision Dated and Mailed

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