

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

SIERRA R DEVOE
Claimant

APPEAL 22A-UI-09560-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/26/20
Claimant: Appellant (2R)**

Iowa Code § 421.17(27) – State Income Tax Refund Offset Authority
Iowa Code § 8A.504 – Setoff Procedures (IDAS)
Iowa Code § 96.11(16) – Reimbursement of Setoff Costs
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 filed an appeal from the April 14, 2022 (reference 08) Iowa Workforce Development (“IWD”) unemployment insurance decision that notified her that her state tax refund may be withheld to recover an overpayment of unemployment insurance benefits. After proper notice, a telephone hearing was held on May 31, 2022. The administrative law judge took official notice of the administrative records. 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:

Is the appeal timely?

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 originally established her claim for benefits with an effective date of April 26, 2020. Claimant made weekly claims and was paid \$2,061.00 in regular unemployment insurance benefits between April 26, 2020 and June 27, 2020. On August 11, 2021, Iowa Workforce Development issued an initial decision (reference 06) establishing an overpayment of those benefits based upon the fact that the claimant was not able and available for work.

On April 14, 2022, IWD notified claimant that due to her unpaid overpayment balance, that her 2021 state income tax refund may be reduced to recover the overpayment. At that time claimant still owed (and continues to owe) \$1,603.00 in state unemployment benefits.

Claimant was awarded PUA benefits effective April 26, 2020. This award was granted on December 15, 2021, yet claimant was issued a decision on April 14, 2022 – a full five months after being granted PUA benefits – that her state taxes were being withheld. IWD has given no reason why they are unable to coordinate their decisions.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the withholding of the Iowa income tax refund to recover the prior overpayment is valid. The administrative law judge concludes that it is.

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 § 421.17(27) via the Iowa Department of Revenue 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 the Iowa Workforce Development Department to withhold the state income tax refund owing to the claimant to apply to an overpayment of benefits which that same claimant owes to the Iowa Workforce Development Department so long as both amounts are at least \$50.00. Iowa Code § 96.11(16) allows reimbursement of setoff costs.

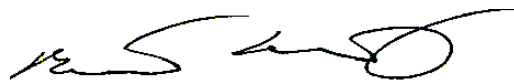
The claimant had an overpayment of \$2,061.00 in regular unemployment insurance benefits for the period of April 26, 2020 and June 27, 2020 after she received benefits for which she was not entitled. The claimant has an Iowa income tax refund of at least \$50.00.

Claimant was awarded PUA benefits effective April 26, 2020. This award was granted on December 15, 2021, yet claimant was issued a decision on April 14, 2022 – a full five months after being granted PUA benefits – that her state taxes were being withheld. IWD has given no reason why they are unable to coordinate their decisions.

DECISION:

The unemployment insurance decision dated April 14, 2022, (reference 08) is reversed. The Iowa Workforce Development Department has no legal authority to withhold the Iowa income tax refund as the claimant has a Pandemic Unemployment Assistance decision granting benefits throughout the dates in question.

This matter is remanded to the benefits bureau to make adjustments to the overpayments listed to correctly state claimant is not overpaid benefits as she has been granted PUA benefits for the dates in question.



Blair A. Bennett
Administrative Law Judge

July 28, 2022
Decision Dated and Mailed

bab/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.