

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

---

**VICTORIA E PETERSON**  
Claimant

**APPEAL 22A-UI-09973-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/01/20  
Claimant: Appellant (2)**

Iowa Code § 8A.504 – Setoff Procedures (IDAS)  
Iowa Code § 96.11(16) – Reimbursement of Setoff Costs  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Code § 96.11(16) – Tax Refund Offset

**STATEMENT OF THE CASE:**

On April 18, 2022, claimant filed an appeal from the April 14, 2022 (reference 04) unemployment insurance 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 scheduled to be held on June 2, 2022. The administrative law judge had enough information from the claimant's appeal and administrative records to make a decision. A hearing was not held.

**ISSUES:**

- I. Was claimant overpaid benefits?
- II. Can the agency 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: A representative's decision dated June 1, 2021 (reference 02) notified claimant of an overpayment of \$1662.00 for six weeks between April 12, 2020, and May 23, 2020. The overpayment was related to a disqualifying decision dated September 15, 2020 (reference 01). Claimant was also notified in a decision dated July 21, 2021, (Ref. 03) that she had been overpaid \$3,600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits. The claimant appealed all three decision to an Administrative Law Judge.

In appeal 21A-UI-13559-DB-T, the Administrative Law Judge affirmed the underlying decision that disqualified claimant from benefits. Claimant appealed the decision to the Employment Appeal Board (EAB). The EAB affirmed the decision. The decision has become final. In appeal 21A-UI-13560-DB-T, the Administrative Law Judge affirmed the state unemployment insurance overpayment. The claimant appealed the decision to the EAB. The EAB affirmed the decision. The decision has become final.

In appeal 21A-UI-18175-DH-T, the Administrative Law Judge affirmed the FPUC overpayment. The claimant appealed the decision to the EAB. The EAB modified the decision and waived claimant's overpayment of FPUC benefits. Claimant no longer is required to repay the FPUC benefits.

On April 18, 2022, a payment of \$1,662.00 was posted to claimant's unemployment insurance account. (Great Plains). Claimant does not have an overpayment balance with Iowa Workforce Development.

The state treasurer has notified Iowa Workforce Development that the claimant has an Iowa income tax refund for 2021, of at least \$50.00.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Iowa Workforce Development does not have authority to recover the overpayment from claimant's state income tax refund.

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 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).

In this case claimant does not have an overpayment balance since the overpayment balance was paid off through a payment dated April 18, 2022. As a result, Iowa Workforce Development does not have legal authority to withhold the Iowa income tax refund.

**DECISION:**

The April 14, 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.



---

Carly Smith  
Administrative Law Judge

---

July 29, 2022  
Decision Dated and Mailed

cs/kmj

**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  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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>.

**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  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

**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.