

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BAILEY K GRIFFIN
Claimant

APPEAL 22A-UI-09156-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/10/20
Claimant: Appellant (2R)

Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 8A.504 – Setoff Procedures
Iowa Code § 96.11(16) – Reimbursement of Setoff Costs
Iowa Admin. Code 871-25.16 – State Payment Offset

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 7, 2022 (reference 05) unemployment insurance decision that found claimant's tax refund was subject to an offset to repay an established overpayment of unemployment insurance benefits. Due notice was issued and an in-person hearing was held on May 12, 2022. Claimant participated personally. Scott Griffin testified on behalf of the claimant. The administrative law judge took official notice of the claimant's administrative records.

ISSUE:

Is the claimant's tax refund subject to offset?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for State of Iowa funded unemployment insurance benefits effective May 10, 2020. Her established weekly-benefit amount was \$153.00. She filed weekly-continued claims from May 10, 2020 through July 18, 2020 due to COVID-19 related reduction in hours worked. She received regular unemployment insurance benefits of \$1,060.00. On March 29, 2021, the claimant was found eligible for Pandemic Unemployment Assistance (PUA) benefits effective May 10, 2020 and continuing at the weekly-benefit amount of \$203.00. Claimant's State of Iowa income tax refund was withheld due to the established overpayment of regular unemployment insurance benefits. This tax refund that was withheld exceeded \$50.00.

Claimant's administrative records establish that she has not been paid any PUA benefits to date, even though she was found eligible for those benefits more than a year ago. Her weekly-benefit amount for PUA benefits is greater than her weekly-benefit amount for regular State of Iowa funded unemployment insurance benefits. Any payment of PUA benefits would be subject to an offset of the overpayment of regular unemployment insurance benefits that were paid to her of \$1,060.00. Claimant would also be eligible for any Federal Pandemic Unemployment

Compensation (FPUC) benefits that were paid as a supplement to her PUA benefits. The matter of payment of PUA benefits and FPUC benefits as a supplement to PUA benefits shall be remanded to the Benefits Bureau for an initial investigation and payment.

REASONING AND CONCLUSIONS OF LAW:

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

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.

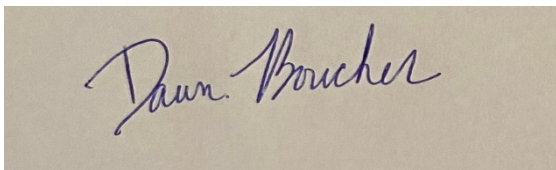
The claimant had an original unpaid overpayment balance of \$1,060.00 due to her being paid regular unemployment insurance benefits when she was not entitled to those benefits. Her tax refund that was withheld was at least \$50.00. However, claimant has been eligible for PUA benefits effective May 10, 2020 and continuing since the decision dated March 29, 2021 was entered. No PUA benefits have been paid to her to date. Her PUA weekly-benefit amount is in excess of her regular State of Iowa weekly-benefit amount. Claimant was entitled to be paid PUA benefits and/or have any established overpayment of State of Iowa funded benefits offset when her PUA benefits were paid to her. Therefore, Iowa Workforce Development was not authorized to withhold the Iowa income tax refund. The tax refund shall be returned to the claimant.

DECISION:

The April 7, 2022 (reference 05) unemployment insurance decision is reversed. The claimant's income tax refund was not subject to offset and her income tax refund shall be returned to her.

REMAND:

The issue of claimant's non-payment of PUA benefits effective May 10, 2020 and continuing for the weekly-benefit amount of \$203.00 is remanded to the Benefits Bureau for an initial investigation and payment to claimant.

A rectangular box containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

May 17, 2022
Decision Dated and Mailed

db/db