

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**MARCUS J CHEZUM**  
Claimant

**APPEAL NO: 13A-UI-02197-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/26/06**  
**Claimant: Appellant (1)**

Section 8A.504 – Debt Setoff Procedures  
Section 96.11-16 – Debt Setoff Cost  
871 IAC 25.15 – Income Tax Offset

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 14, 2013, reference 01, that held his Iowa income tax refund was being withheld to repay a benefit overpayment. A telephone hearing was held on March 25, 2013. The claimant did not participate.

**ISSUE:**

The issue is whether claimant's Iowa tax refund can be withheld to repay a UI benefit overpayment.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record finds: The department record shows claimant has an outstanding UI benefit overpayment in the amount of \$1,460.00 prior to the debt setoff procedure. Claimant filed a UI claim effective March 26, 2006. The record shows he was overpaid benefits \$292.00 for the week ending April 15, 2006 and \$1,168.00 for the three weeks ending July 1, 2006.

The department is withholding claimant's \$257.00 Iowa income tax refund to apply against the \$1,460.00 overpayment. Claimant failed to respond to the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

*Section 96.11-16 Reimbursement of Setoff Costs.* The department shall include in the amount of setoff in accordance with section 8A.504 for collection of an overpayment created pursuant to section 96.3-7 or 96.16-4 an additional amount for the reimbursement of setoff costs incurred by Department of Administrative Services.

871 IAC 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 and finance for administrative costs to execute the offset. All overpayments, whether fraud or nonfraud, are included in this process.

(1) If the individual has made no attempt to repay the overpayment of benefits within the preceding six months, the individual's name and social security number are given to the department of revenue and finance.

(2) The department of revenue and finance 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 and finance 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 job service'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 sections 96.11 and 421.17(26,29).

The administrative law judge concludes the department has the authority to set-off and collect claimant's tax refund to apply against the benefit overpayment.

The statute of limitations to collect an overpayment is ten years. The department record shows claimant incurred the \$1,460.00 overpayment on his March 26, 2006 UI claim. The department is allowed to offset the \$257.00 refund to apply against the overpayment.

**DECISION:**

The department decision dated February 14, 2013, reference 01, is affirmed. The department has the authority to withhold claimant's Iowa income tax refund to repay an outstanding UI benefit overpayment.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs