EMILY R DEUGAN Claimant **IOWA WORKFORCE** **DEVELOPMENT DEPARTMENT**	**APPEAL 22A-UI-07288-JC-T** **ADMINISTRATIVE LAW JUDGE** **DECISION** **OC: 03/15/20** **Claimant: Appellant (1R)**

Iowa Code § 8A.504 – Setoff Procedures (IDAS)
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/appellant, Emily R. Deugan, filed an appeal to the March 24, 2022, (reference 06) decision which 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 3, 2022. The claimant participated personally. Official notice was taken of the administrative records.

ISSUES:

Does the claimant have an overpayment of unemployment insurance benefits?
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, the administrative law judge finds: Claimant established her claim for unemployment insurance benefits with an effective date of March 15, 2020. Claimant filed for unemployment insurance benefits between March 15, 2020 and August 22, 2020 in response to her self-employment being impacted by the COVID-19 pandemic.

A reference 01 initial decision dated August 9, 2020, denied regular state funded unemployment insurance benefits to claimant based upon a prior 2019 separation with Paylocity. Claimant appealed the decision and the denial was affirmed in Appeal 21A-UI-12891-AR-T. The Employment Appeal Board (EAB) affirmed the denial of benefits.

As a result of the denial of regular state funded benefits, IWD established an overpayment of regular unemployment insurance benefits that were paid to claimant between March 15, 2020 and August 22, 2020. The reference 02 initial decision concluded claimant was overpaid $11,063.00. Claimant appealed the decision and the overpayment of benefits was upheld after a July 15, 2021 hearing. See Appeal 22A-12892-AR-T. The EAB also affirmed the overpayment of benefits.

Claimant applied for Pandemic Unemployment Assistance (PUA) benefits and was initially denied in a September 29, 2020 initial decision. She appealed the decision and the denial was affirmed following a hearing on July 17, 2021. See Appeal 21A-DUA-01700-LJ-T. The EAB reversed the administrative law judge's decision and concluded claimant was eligible for PUA benefits.

A reference 04 decision was issued on August 5, 2021, concluding claimant was overpaid $10,200.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the period of April 4, 2020 and July 25, 2020. A reference 05 initial decision concluded claimant was overpaid Lost Wages Assistance (LWA) benefits in the amount of $1,200.00 for the period between July 26, 2020 and August 22, 2020. Claimant appealed both decisions, and after telephone hearings, the administrative law judge reversed the finding of overpayments, concluding because claimant was eligible for PUA benefits for the period of the FPUC and LWA benefits, she was not overpaid. See Appeals 21A-UI-17681-AW-T and 21A-UI-17682-AW-T.

To date, PUA benefits have not been paid out to claimant. Claimant has not repaid the overpayment of regular unemployment insurance benefits, as she awaits an offset once her PUA eligibility is considered.

Claimant filed a 2021 Iowa state income tax return and is entitled to a refund of $50.00 or more.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set for the below, the administrative law judge concludes the agency may withhold the claimant's state income tax refund to offset an established overpayment of unemployment insurance benefits.

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 unpaid overpayment balance, and an Iowa income tax refund of at least $50.00.

Therefore, Iowa Workforce Development is legally authorized to withhold that Iowa income tax refund up to the remaining amount of the overpayment of benefits, not including a $7.00 transfer fee, which the claimant owes to Iowa Workforce Development.

However, the administrative law judge is remanding the issue of claimant's unpaid PUA benefits and any offset of overpayment based on approval of PUA benefits is remanded to the Benefits Bureau for an investigation.

DECISION:

The unemployment insurance decision dated March 24, 2022, (reference 06) is affirmed. Iowa Workforce Development does have legal authority to withhold the Iowa income tax refund owed to the claimant to apply to the overpayment of benefits, which that individual owes to Iowa Workforce Development.

REMAND: The issue of disbursing claimant's unpaid PUA benefits and any offset of overpayment based on approval of PUA benefits is remanded to the Benefits Bureau for an investigation.

Jennifer L. Beckman

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May 17, 2022
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Decision Dated and Mailed

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