

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

AUGUST D GREGORY
Claimant

APPEAL 23A-UI-02359-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 07/03/22
Claimant: Appellant (2)

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:

August D. Gregory (claimant) filed an appeal from the February 23, 2023, reference 05, unemployment insurance decision that gave notice that claimant's 2022, Iowa income tax refund was going to be withheld to apply to an overpayment of unemployment insurance benefits, which the claimant owed to Iowa Workforce Development. After due notice was issued, a hearing was scheduled to be held by telephone conference call on March 22, 2023. The claimant participated. The hearing was held jointly with 23A-UI-02359-SN-T.

ISSUE:

Is the withholding of the claimant's state income tax refund to offset a prior overpayment of benefits authorized?

FINDINGS OF FACT:

Having reviewed the administrative record, the administrative law judge finds:

An unemployment insurance decision dated December 21, 2022, reference 04, notified the claimant of an overpayment relying on a November 7, 2022, reference 03 disqualification decision. The overpayment amount was \$572.00. The claimant appealed the November 7, 2022, reference 03 disqualification decision, which led to a reversal of the disqualification decision in 23R-UI-00986-JD-T. The state treasurer has notified Iowa Workforce Development (IWD) that the claimant has an Iowa income tax refund for 2022 of at least \$50.00.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the withholding of the Iowa income tax refund to recover the prior overpayment is invalid.

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

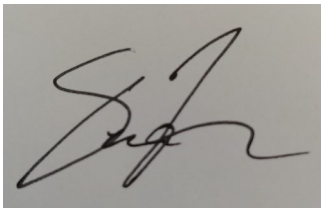
However, the claimant does not owe IWD \$572.00 in benefits that he received in 2022 because 23R-UI-00986-JD-T states he is entitled to the benefits he received for the week referenced on the overpayment decision. Therefore, IWD is not legally authorized to withhold that Iowa income tax refund up to the amount of the overpayment of benefits. Nor is it authorized to assess a \$7.00 transfer fee.

DECISION:

The unemployment insurance decision dated February 23, 2023, reference 05, is REVERSED. IWD does not have legal authority to withhold the Iowa income tax refund owed to the claimant.

REMAND:

The administrative law judge is remanding to the Benefits Bureau the issue regarding remittance of the \$572.00 plus the \$7.00 transfer fee, if applicable, to the claimant because it lacked the authority to take from his tax return.



Sean M. Nelson
Administrative Law Judge II
Iowa Department of Inspections & Appeals
Administrative Hearings Division – UI Appeals Bureau

March 27, 2023
Decision Dated and Mailed

smn/mh

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 adquiriera 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.