

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE M MOORE
Claimant

APPEAL NO. 12A-UI-01631-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/03/08
Claimant: Appellant (1)

Section 96.3-7 – Recovery of Overpayment
871 IAC 25.16 – Income Tax Offset

STATEMENT OF THE CASE:

The claimant appealed from a department representative's decision dated February 3, 2012, reference 01, that held her state tax refund is being withheld to repay a benefit overpayment. A telephone hearing was scheduled for March 7, 2012. The claimant did not participate.

ISSUES:

Whether the claimant is overpaid benefits.

Whether claimant's state refund may be offset to repay a benefit overpayment.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The department record shows the claimant is overpaid benefits \$383 pursuant to an overpayment statement mailed to claimant on July 1, 2011. The overpayment exceeds her refund plus the transfer fee amount.

The claimant did not respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 25.16(3) 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.

(3) In the case of a joint 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 the split of the refund is not made timely, the entire income tax refund becomes subject to offset.

The administrative law judge concludes that the claimant is overpaid a benefit that is subject to the department state income tax offset procedure to repay it.

The claimant offered no applicable reason in her appeal letter to challenge the department action to collect her state income tax refund in order to repay an unemployment benefit overpayment.

DECISION:

The representative's decision dated February 3, 2012, reference 01, is affirmed. The department is authorized to offset claimant's state tax refund.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw