

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

SHELLY R MONK
Claimant

APPEAL 23A-UI-03187-PT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.11(16) – Reimbursement of Setoff Costs
Iowa Code § 8A.504 – Setoff Procedures (IDAS)
Iowa Admin. Code r. 871-25.16 – State Income Tax Refund Offset

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 2, 2023, (reference 05) unemployment insurance decision that held claimant's overpayment of unemployment insurance benefits, including a \$7.00 transfer fee, would be withheld from her Iowa income tax refund. The claimant was properly notified of the hearing. A telephone hearing was scheduled for and held on April 11, 2023. The claimant participated personally and was represented by non-attorney representative Jarret Heil. The administrative law judge took official notice of the claimant's administrative records.

ISSUE:

Whether Iowa Workforce Development has authority to withhold the claimant's State of Iowa income tax refund to apply it against a prior overpayment of unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Iowa Workforce Development (IWD) issued two decisions on November 18, 2021. The first decision, reference number 03, held that the claimant had been overpaid \$492.00 in regular unemployment insurance benefits for a two-week period between March 29, 2020, and April 11, 2020. The second decision, reference number 04, held the claimant had been overpaid \$1,200.00 in Federal Pandemic Unemployment Compensation benefits during the same two-week period, for a combined total overpayment of \$1,692.00. The administrative record reflects that the claimant did not appeal the decisions and that both decisions have become final.

The state treasurer has notified Iowa Workforce Development that the claimant has an Iowa income tax refund for 2022 of at least \$50.00. On March 2, 2023, Iowa Workforce Development mailed the reference 05 decision to the claimant to notify claimant that her overpayment of unemployment insurance benefits, including a \$7.00 transfer fee, was being withheld from her Iowa income tax refund.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 8A.504 provides a procedure whereby state agencies may request that the Iowa Department of Revenue withhold moneys the state owes to an individual with an outstanding debt to the requesting state agency. Iowa Code section 96.11(16) authorizes addition of an administrative fee to amounts recovered through the offset procedure set forth at Iowa Code section 8A.504.

Iowa Administrative Code rule 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.

(1) The individual's name and social security number are given to the department of revenue.

(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.

(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.

(4) Any appeal by the individual is limited to the validity of the department'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 section 96.11 and 421.17(26,29).

The claimant owes Iowa Workforce Development \$1,692.00 in benefits she received in 2020, to which she was not entitled, and she has 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 amount of the overpayment of benefits, plus a \$7.00 transfer fee, which the claimant owes to Iowa Workforce Development.

DECISION:

The March 2, 2023, (reference 05) unemployment insurance decision is affirmed. Iowa Workforce Development has legal authority to withhold the Iowa income tax refund owed to claimant to apply to the overpayment of benefits, which the claimant owes to Iowa Workforce Development.



Patrick B. Thomas
Administrative Law Judge

April 13, 2023
Decision Dated and Mailed

pbt/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.