

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WENDY S GOLLADAY**  
Claimant

**APPEAL NO. 13A-UI-03291-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/29/09**  
**Claimant: Appellant (1)**

871 IAC 25.16 – State Payment Offset

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the representative's decision dated March 7, 2013, reference 08, which held that the claimant's overpayment of unemployment insurance benefits was being withheld from the claimant's Iowa income tax refund. After due notice was issued, a hearing was held by telephone conference call on April 17, 2013. The claimant participated personally. The record consists of the testimony of Wendy Golladay. Official notice is taken of agency records.

**ISSUE:**

Whether the withholding of the state income tax refund to recover a prior overpayment of unemployment insurance benefits is valid.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge makes the following findings of fact:

The claimant established an original claim for benefits with an original claim date of March 29, 2009. The claimant was overpaid unemployment insurance benefits in the amount of \$1,086.00. This is now a judgment against the claimant. The claimant has made no effort to repay the benefits within the last six months.

**REASONING AND CONCLUSIONS OF LAW:**

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 claimant has been overpaid unemployment insurance benefits. The only issue that can be considered by the administrative law judge is whether the agency has the authority to recoup the overpayment through offset. The answer to that question is yes.

**DECISION:**

The unemployment insurance decision dated March 7, 2013, reference 08, is affirmed. The withholding of the claimant's income tax refund to recover a prior overpayment is valid.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs