

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**WILLIAM S GRAY**  
Claimant

**APPEAL NO. 22A-UI-06301-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 12/02/18  
Claimant: Appellant (1)**

Iowa Code § 8A.504 – Set-off Procedures  
Iowa Code § 96.11(16) – Off-set Administrative Fee  
Iowa Admin. Code r. 871-25.16 - Income Tax Offset

**STATEMENT OF THE CASE:**

On March 11, 2022, William Gray (claimant) filed a timely appeal from the March 3, 2022 (reference 08) decision that notified the claimant the State of Iowa was withholding his Iowa income tax refund so that it could be offset against an outstanding unemployment insurance overpayment amount and a \$7.00 transfer fee. After due notice was issued, a hearing was held on May 5, 2022. The claimant participated personally and was represented by attorney Cecelia Ibson. Exhibit A, the Employment Appeal Board decision in Hearing number 20B-UI-00030, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: the April 4, 2019 (reference 04, o.c. 12/2/18) decision, the administrative law judge decision in Appeal Number 19A-UI-03462-JC-T, the Employment Appeal Board decision in hearing number 19B-UI-03462, the Iowa District Court affirmance of the Employment Appeal Board decision in hearing number 19B-UI-03462, the December 18, 2019 (reference 01, o.c. 12/8/19) decision, the administrative law judge decision in Appeal Number 20A-UI-00030-S1-T, the Employment Appeal Board decision in Hearing number 20B-UI-00030, the offset of \$125.00 in benefits in connection with the December 8, 2019 original claim, and the current outstanding overpayment amount pursuant to IWD records.

**ISSUE:**

Whether Iowa Workforce Development has authority to withhold the claimant's Iowa income tax refund to off-set or recover a prior overpayment of unemployment insurance benefits plus an administrative fee.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant filed a 2021 Iowa income tax return and anticipated a \$1,115.00 income tax refund.

On March 3, 2022, Iowa Workforce Development mailed to the claimant the reference 08 decision that notified the claimant the State of Iowa was withholding the claimant's Iowa income tax refund so that it could be offset against an outstanding unemployment insurance overpayment amount and a \$7.00 transfer fee. The reference 08 decision entered in reference to the claimant's December 2, 2018 original claim.

On April 4, 2019, an Iowa Workforce Development Benefits Bureau deputy issued a reference 04 decision in reference to the December 2, 2018 original claim. The reference 04 decision held the claimant was overpaid \$8,245.00 in unemployment insurance benefits for 17 weeks between December 2, 2018 and March 3, 2019. On May 2, 2019, an administrative law judge affirmed the reference 04 overpayment decision in Appeal Number 19A-UI-03462-JC-T. On May 31, 2019, the Employment Appeal Board affirmed the administrative law judge's decision in Hearing Number 19B-UI-03462. The claimant filed a petition for judicial review of the Employment Appeal Board's decision. The District Court affirmed the Employment Appeal Board's decision. The claimant did not appeal the District Court decision.

The claimant established an original claim and a new benefit year that was effective December 8, 2019. In connection with the new benefit year, IWD approved the claimant for \$125.00 in benefits for the week that ended December 14, 2019, but withheld payment and offset the \$125.00 against the \$8,245.00 overpayment.

The claimant advises, and the \$7,120.00 current outstanding overpayment balance reflects, that the claimant paid an additional \$1,000.00 towards the \$8,245.00 overpayment amount.

On December 18, 2019, an Iowa Workforce Development Benefits Bureau deputy issued a reference 01 decision in connection with the December 8, 2019 benefit year. The reference 01 decision held the claimant had not met the eight-times-weekly-benefit-amount minimum earnings requirement set forth at Iowa Code section 96.4(4) and, therefore, was not eligible for benefits in connection with a second benefit year.

An administrative law judge affirmed the minimum earnings requirement disqualification in Appeal Number 20A-UI-00030-S1-T.

The Employment Appeal Board reversed the minimum earnings requirement disqualification in Hearing Number 20B-UI-00030. The Employment Appeal Board decision in hearing 20B-UI-00030, regarding the benefit year that started December 8, 2019 and the minimum earnings requirement issue applicable to that benefit year, did nothing to disturb the overpayment adjudication associated with the December 2, 2018 benefit year.

## **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 8A.504 provides a procedure for state agencies "to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency." Iowa Code section 96.11(16) directs Iowa Workforce Development to assess "an additional amount for the reimbursement of setoff costs incurred by the department of administrative services."

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 is owed a payment from the state of at least \$50.00. The payment owed is an Iowa income tax refund that the claimant believes to be about \$1,115.00. The claimant owes overpayment of benefits of at least \$50.00. The outstanding overpayment amount is \$7,120.00. Iowa Workforce Development has complied with the off-set procedure set forth at Iowa Code section 8A.504. Indeed, the claimant, through counsel concedes the State's authority to recover the overpayment through tax refund offset. Iowa Workforce Development has authority to withhold the claimant's income tax refund to offset the refund against the outstanding overpayment balance and a \$7.00 transfer fee.

The claimant's assertion that the Employment Appeal Board decision in Hearing Number 20B-UI-00030 reduced the previously adjudicated overpayment amount is based on misreading of the Employment Appeal Board's decision in Hearing Number 20B-UI-00030. Claimant's argument disregards the nature of the legal issue before the Employment Appeal Board in Hearing Number 20B-UI-00030, which was whether the claimant met a minimum earnings requirement to be considered for benefits in connection with the benefit year that started December 8, 2019. Given the procedural posture of the overpayment adjudication pertaining to the December 2, 2018, there is no scenario under which the Employment Appeal Board would have jurisdiction to amend the adjudicated overpayment amount or balance through the decision in Hearing Number 20B-UI-00030. See Iowa Code section 96.6. The claimant misreads the Employment Appeal Board's analysis of the minimum earnings requirement issue. The claimant misinterprets the Employment Appeal Board guidance on how the claimant could potentially chip away at the previously adjudicated overpayment amount by continuing to make weekly claims in the new year, which claims could result in weekly benefits approved in the new benefit year being withheld and off-set against the previously adjudicated overpayment. The administrative law judge notes the following finding of fact: "He owes an overpayment for the entire amount he collected." Hearing Number 20B-UI-00030, p.2. See also: "He was paid out

17 weeks of benefits for a total of \$8,245.00 but was subsequently overpaid the entire amount.”  
Hearing Number 20B-UI-00030, p.2. See also in the Reasoning and Conclusions of Law:

Naturally, for set-off purposes his debt is not erase[d] by this ruling. We only rule that he is not rendered ineligible by the eight times requirement. We would expect that any benefits he has credited to him this benefit year will go to offset his overpayment.

Hearing Number 20B-UI-00030, p.5.

**DECISION:**

The March 3, 2022 (reference 08) decision is AFFIRMED. Iowa Workforce Development have authority to withhold the claimant's Iowa income tax refund so that it may be offset against an outstanding unemployment insurance overpayment amount and a \$7.00 transfer fee.



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James E. Timberland  
Administrative Law Judge

May 19, 2022  
Decision Dated and Mailed

jet/scn