

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

JACKIE L PEIFFER
Claimant

APPEAL NO. 22R-UI-13979-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/29/20
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:

This matter is before the administrative law judge pursuant to an Employment Appeal Remand in Hearing Number 22B-UI-04501 for another decision on the merits. The remand cites a timeliness of appeal determination as the basis for the remand, but timeliness of appeal was not an issue in this appeal number. On February 14, 2022, Cynthia Peiffer, legal guardian for Jackie Peiffer (claimant), filed an appeal that Appeals Bureau treated as a timely appeal from the later, March 3, 2022 (reference 06) decision that held a prior overpayment of unemployment insurance benefits and administrative fee would be withheld from the claimant's Iowa income tax refund and applied to an outstanding overpayment balance. After due notice was issued, a hearing was held on March 23, 2022. Claimant's legal guardian, Cynthia Peiffer, participated. The claimant did not participate. There were five appeal numbers set for a consolidated hearing: 22A-UI-04496-JT-T, 22A-UI-04497-JT-T, 22A-UI-04499-JT-T, 22A-UI-04500-JT-T, and 22A-UI-04501-JT-T. Exhibit A, the online appeal, was received into evidence. The administrative law judge took official notice of the guardianship and conservatorship established in Calhoun County Case Number GCPR012425. The administrative law judge took official notice of the reference 01 through reference 06 decisions. The administrative law judge took official notice of the record of benefits disbursed to the claimant (DBRO, KPYX and KPY1). The administrative law judge took official notice of the claimant's quarterly wages (WAGE-A) and of the employer's letter dated June 25, 2021 (attached to reference 01 supplemental documents). The administrative law judge took official notice of the IWD decision docketing records (NMRO). The administrative law judge took official notice of the outstanding overpayment balances.

Pursuant to the Employment Appeal Board remand, the Appeals Bureau has assigned new Appeal Numbers: 22R-UI-13975-JT-T, 22R-UI-13976-JT-T, 22R-UI-13977-JT-T, 22R-UI-13978-JT-T, and 22R-UI-13979-JT-T.

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 a \$7.00 transfer fee.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jackie Peiffer is the claimant. Jackie Peiffer is an adult person with an intellectual disability characterized as moderate. Jackie Peiffer is unable to read or write. Jackie Peiffer shares an apartment in Carroll with another adult with disabilities. Jackie Peiffer receives home and community based support that includes five hours of supervised help with activities of daily living and additional day-program assistance. Jackie Peiffer's parents, Cynthia Peiffer and Duane Peiffer, are Jackie Peiffer's legal guardians. Cynthia and Duane Peiffer reside in Fonda, Iowa, about 36 miles from Jackie Peiffer's home in Carroll.

Iowa Workforce Development set Jackie Peiffer's weekly benefit amount for regular benefits at \$118.00. IWD paid \$118.00 in weekly regular benefits for each of the weeks between March 29, 2020 and August 22, 2020. The regular benefits disbursed to Jackie Peiffer included \$1,534.00 in regular benefits paid for the 13 weeks between May 24, 2020 and August 22, 2020. IWD also paid \$600.00 in weekly Federal Pandemic Unemployment Compensation (FPUC) for each of the weeks between March 29, 2020 and July 25, 2020. The FPUC benefits disbursed to Jackie Peiffer included \$5,400.00 in FPUC benefits for the nine weeks between May 24, 2020 and July 25, 2020. IWD also paid Jackie Peiffer \$300.00 in weekly Lost Wages Assistance Payments (LWAP) for each of the four weeks between July 26, 2020 and August 22, 2020. The LWAP benefits totaled \$1,200.00. All benefits were direct-deposited to a bank account.

On November 3, 2021, Iowa Workforce Development mailed three overpayment decisions to Jackie Peiffer's address in Carroll. The reference 03 decision held Jackie Peiffer was overpaid \$1,534.00 in regular unemployment insurance benefits for the 13 weeks between May 24, 2020 and August 22, 2020, due to the February 8, 2021 (reference 02) decision that denied benefits for that period pursuant to the between academic terms disqualification. The reference 04 decision held Jackie Peiffer was overpaid \$5,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the nine weeks between May 24, 2020 through July 25, 2020 for the same reason. The reference 05 decision held Jackie Peiffer was overpaid \$1,200.00 in Lost Wages Assistance Payments (LWAP) benefits for the four weeks between July 26, 2020 and August 22, 2020 for the same reason. The overpayment decisions have been affirmed in Appeal Numbers 22R-UI-13976-JT-T, 22R-UI-13977JT-T, 22R-UI-13978-JT-T.

Jackie Peiffer has an \$8,134.00 outstanding combined overpayment balance. Jackie Peiffer filed Iowa income tax return and was due a refund that exceeded \$50.00. The amount of the overpayment exceeds the amount of the Iowa income tax refund. On March 3, 2022, Iowa Workforce Development mailed the reference 06 decision to Jackie Peiffer's guardians' address to notify Jackie Peiffer and her guardians that Iowa Workforce Development intended to have the Iowa Department of Revenue withhold Jackie Peiffer's Iowa income tax refund to off-set the refund amount against the outstanding unemployment insurance overpayment and a \$7.00 transfer fee.

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 and owes an overpayment of benefits of at least \$50.00. Iowa Workforce Development has complied with the off-set procedure set forth at Iowa Code section 8A.504. Iowa Workforce Development has authority to offset the claimant's Iowa income tax refund against the outstanding overpayment balance plus a \$7.00 transfer fee.

DECISION:

The March 3, 2022 (reference 06) decision is affirmed. Iowa Workforce Development has authority to offset the claimant's Iowa income tax refund against the outstanding overpayment balance plus a \$7.00 transfer fee.

A handwritten signature in black ink that reads "James E. Timberland". The signature is written in a cursive, flowing style.

James E. Timberland
Administrative Law Judge

September 23, 2022
Decision Dated and Mailed

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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>.

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 está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.