

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JUSTIN J LOVE
Claimant

APPEAL 22A-UI-04340-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 04/05/20
Claimant: Appellant (1R)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Code § 96.11(16) – Tax Refund Offset

STATEMENT OF THE CASE:

Claimant Justin J. Love filed an appeal from the February 7, 2022 (reference 04) unemployment insurance decision that allowed claimant's overpayment to be withheld from claimant's Iowa income tax refund. Claimant was properly notified of the hearing. A telephone hearing was held on March 21, 2022. Claimant participated and was represented by attorney Marlon Mormann. Official notice was taken of the administrative record.

ISSUE:

Whether the agency can withhold the claimant's state income tax refund to offset an established overpayment of unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A representative's decision dated October 27, 2020 (reference 02) notified claimant of an overpayment related to an ineligibility decision dated June 9, 2020 (reference 01). Claimant appealed the decision, but later withdrew the appeal on the record. The decision has become final. Claimant has not made any payments towards the overpayment of benefits. The state treasurer has notified Iowa Workforce Development that the claimant has an Iowa income tax refund of at least \$50.00.

Claimant applied for Pandemic Unemployment Assistance (PUA) benefits. On July 11, 2020, IWD determined claimant was eligible for PUA benefits. Those funds have not yet been released to claimant. In a decision dated February 10, 2021, an administrative law judge remanded the matter of recovery of the overpayment from the PUA benefits claimant is owed to the Benefits Bureau. To date, the overpayment has not been offset by the PUA benefits and the funds have not been released to claimant.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. 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.

Iowa Code § 8A.504(1)(2) provides, in pertinent part, the following setoff procedures:

f. (1) Upon notice of entitlement to a payment, the state agency shall send written notification to that person of the state agency's assertion of its rights to all or a portion of the payment and of the state agency's entitlement to recover the liability through the setoff procedure, the basis of the assertion, the opportunity to request that a jointly or commonly owned right to payment be divided among owners, and the person's opportunity to give written notice of intent to contest the amount of the allegation. The state agency shall send a copy of the notice to the collection entity. A state agency subject to chapter 17A shall give notice, conduct hearings, and allow appeals in conformity with chapter 17A.

Iowa Code § 96.11(16) provides:

16. Reimbursement of setoff costs. The department shall include in the amount set off in accordance with section 8A.504, for the collection of an overpayment created pursuant to section 96.3, subsection 7, or section 96.16, subsection 4, an additional amount for the reimbursement of setoff costs incurred by the department of administrative services.

Iowa Admin. Code r. 871-25.16(1-5) 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).

Claimant owes Iowa Workforce Development money due to benefits claimant received and to which claimant was not entitled. Claimant has an Iowa income tax refund of at least \$50.00. Based on the evidence before the administrative law judge at this time, Iowa Workforce Development is legally authorized to withhold the Iowa income tax refund up to the amount of the overpayment of benefits, plus a \$7.00 transfer fee.

This matter should be remanded to the Benefits Bureau to consider whether the tax offset should be removed if the PUA benefits are used to eliminate the overpayment.

DECISION:

The February 7, 2022 (reference 04) 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 that claimant owes to Iowa Workforce Development.

REMAND:

This matter is remanded to the Benefits Bureau to consider whether the tax offset should be removed if the PUA benefits claimant is owed are used to eliminate the overpayment.



Stephanie Adkisson
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March 31, 2022

Decision Dated and Mailed

sa/abd