WORKFORCE DEVELOPMENT DEPARTMENT

Notice of Intended Action

Proposing rule making related to federal payment offset and providing an opportunity for public comment

The Workforce Development Department hereby proposes to amend Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

This proposed rule making is intended to further clarify the process by which the Department uses the federal treasury offset program, including to clarify the appeal rights of debtors to whom the offset will be applied.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 22, 2019. Comments should be directed to:

David Steen
Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: david.steen@iwd.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.
Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind rule 871—25.17(96) and adopt the following new rule in lieu thereof:

871—25.17(96) Federal payment offset. Pursuant to 42 U.S.C. §503(m), 26 U.S.C. §6402(f), and 31 CFR §285.8, the department shall utilize the treasury offset program in order to collect past-due, legally enforceable covered unemployment compensation debt.

25.17(1) Definitions.

“Covered unemployment compensation debt” means:

1. A past-due debt for erroneous payment of unemployment compensation due to fraud or the person’s failure to report earnings, as identified by the integrity bureau, which has become final under the law of this state and which remains uncollected; or
2. Contributions due to the unemployment fund of this state for which the state has determined the person to be liable and which remain uncollected; and
3. Any penalties and interest assessed on such debt.

“Department,” “state of Iowa,” “Iowa” or “the state” means the department of workforce development.

“Overpayment” means a federal tax refund due and owing to a person or persons.

“Tax refund offset” means withholding or reducing, in whole or in part, a federal tax refund payment by an amount necessary to satisfy a past-due, legally enforceable covered unemployment compensation debt owed by the payee (taxpayer) of the tax refund payment.

“Tax refund payment” means the amount to be refunded to a person by the federal government after the Internal Revenue Service (IRS) has applied the person’s overpayment to the person’s covered unemployment compensation debts in accordance with 26 U.S.C. §6402(f) and 31 CFR §285.8.

25.17(2) Prerequisites for requesting a federal offset. The following are the requirements that must be met before the department can certify a tax refund offset against a covered unemployment debt:

a. Written demand. The department must have made written demand on the person to obtain payment of the covered unemployment compensation debt for which the request for offset is being submitted.

b. Legally enforceable. The debt must be legally enforceable under applicable law. To be considered legally enforceable, the debt must be a final determination that is not subject to further appeal.

c. Minimum amount. Before offset of a federal refund can be requested by the state of Iowa, the person’s covered unemployment compensation debt must be at least $25.

d. Notice. The department must send the debtor a pre-offset notice which complies with the requirements of subrule 25.17(3).

25.17(3) Pre-offset notice and explanation of rights. At least 60 days prior to requesting the offset of a person’s federal overpayment for a covered unemployment compensation debt owed to the state, the state of Iowa must provide notice to the person owing the debt. The notice must include the following information:

a. That the department intends to request the offset of the person’s federal overpayment against a specified covered unemployment compensation debt;

b. The amount and basis of the debt;

c. That such debt is past due and legally enforceable;
d. That such debt is due to fraud or failure to report earnings, and how and on what date the
department made that determination;
e. That the authority for this offset is 26 U.S.C. §6402(f), as implemented by this chapter;
f. That the person has 60 days from the date the notice is received to submit evidence to the
department that all or part of such debt at issue:
   (1) Is not past due or is not legally enforceable, or
   (2) Is not a covered unemployment compensation debt, i.e., not due to fraud or the person’s failure
to report earnings;
g. That the person is entitled to inspect and copy the records of the department related to the claim;
h. The method(s) of delivery for submitting the evidence described in paragraph 25.17(3) “f”;
i. That failure to timely submit the evidence waives the person’s right to protest the amount,
validity or qualification of the covered unemployment compensation debt for offset at any time in the
future; and
j. Where contact can be made with the department for additional information, questions, or to
inspect and copy the records of the department related to the claim.

This rule is intended to implement 42 U.S.C. §503(m).