

871—25.8(96) Recovery of benefit overpayments when benefits are erroneously received.

25.8(1) *Good faith overpayment.* If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual is not entitled to receive the benefits, the department shall 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. The department shall mail the overpayment decision to the claimant's last-known address. Once the overpayment amount has been established, an overpayment schedule shall be set up to leave a proper audit trail even if the claimant pays to the department a sum equal to the overpayment.

a. The department shall mail a first statement of overpayment to the claimant's last-known address. This statement will request full repayment in the form of a negotiable check, money order, or bank draft payable to the Department of Workforce Development.

b. If a claimant fails to respond to the first statement of overpayment a second statement shall be sent 30 days later. The second statement notifies the claimant that full repayment must be made. If the claimant cannot make full repayment the department will consider a monthly repayment agreement.

c. Rescinded IAB 10/15/03, effective 11/19/03.

d. If an individual has acted in good faith and is without fault in claiming federal unemployment compensation under any of the following programs:

- (1) Unemployment Compensation Federal Employees (UCFE)
- (2) Unemployment Compensation Ex-servicemembers (UCX)
- (3) Trade Readjustment Allowances (TRA)
- (4) Disaster Unemployment Assistance (DUA)

and it is subsequently determined that the individual is not entitled to the benefits, the department shall have the right to recover the benefits in accordance with the procedure outlined in subrule 25.8(1). Any federal unemployment compensation overpayments recovered shall be credited to the appropriate account of the United States. Three years after the instance of the federal unemployment compensation overpayment, if the department concludes that continued collection efforts would result in diminishing returns, then the unrecovered amount will be removed from the department accounting records. An administrative record will be maintained for possible collection through offset or other appropriate method. If no collection action has taken place during the three years after the department has removed the overpayment from its accounting records, then the overpayment will be disposed of.

Any overpayment of Trade Readjustment Allowances or Trade Adjustment Assistance or Disaster Unemployment Assistance will be offset at the rate of 50 percent of the benefit amount otherwise payable to the individual for unemployment insurance, extended benefits or any other federal unemployment compensation program.

25.8(2) *Misrepresentation.*

a. Whenever it is found that a claimant has received benefits through misrepresentation and has been assessed with an overpayment, no further benefits shall be paid to such claimant until the total amount of the overpayment has been reimbursed or otherwise liquidated to the satisfaction of the department.

b. The claimant may make refund of an overpayment by cash or by means of an offset against future benefit payments, at the discretion of the department.

(1) If the department seeks to recover the amount of the benefits, the department may file a lien with the county recorder for the amount of the overpayment against the property and rights to property, whether real or personal, belonging to the individual.

(2) The department may attempt to collect the overpayment in the manner provided in Iowa Code section 96.14(3).

c. Any benefits which may become due an individual against whom a fraudulent overpayment is outstanding may be used to reduce the amount of the fraudulent overpayment. The employer's account will be noncharged for overpayments caused by fraud or misrepresentation.

d. If it is found that an individual has received benefits through misrepresentation and has been assessed with an overpayment under any of the following programs:

- (1) Unemployment Compensation Federal Employees (UCFE)
- (2) Unemployment Compensation Ex-service members (UCX) and criminal charges are not involved, the department will limit deduction from future benefits to a two-year period following the original determination of overpayment. If an individual is convicted for fraud, the department shall have the right to recover any resulting overpayment in accordance with the procedure outlined in subrule 25.8(2).

25.8(3) *Purging uncollectible overpayments.* On the last working day of each calendar month, the department reviews all outstanding overpayments, which are ten years or older from the date of the overpayment decision, and determines as uncollectible and purges from its records the unpaid balances of overpayments which are ten years or older from the date of the most recent recovery of a part of the outstanding overpayment.

This rule is intended to implement Iowa Code sections 96.7(2), 96.11(1), 96.11(11), 96.11(13), 96.14(3), 96.16, 96.20, and 96.29.

[ARC 3247C, IAB 8/2/17, effective 9/6/17]