

871—25.7(96) Determination of overpayment by reason of claimant's fault or fraud.

25.7(1) The investigation and recovery unit may determine that a claimant has received benefits to which the claimant was not entitled due to the claimant's own fault, the employer's fault, the agency's fault, or fraud as provided in Iowa Code section 96.16.

25.7(2) A dated notice of such determination shall promptly be mailed to the claimant at the claimant's last-known address. Such notice shall advise the claimant of the reason for and total amount of the overpayment as well as the benefit weeks involved. The determination is final unless the claimant, within ten calendar days of the date shown on the notification, files a written request for review or appeal.

25.7(3) Upon receiving a written request for review, the investigation and recovery unit, based upon such facts as it has or may acquire, may affirm, modify, or reverse the prior decision or refer the matter to an administrative law judge. The claimant shall be promptly notified of such decision or referral. Unless the claimant files an appeal within ten calendar days after the date of mailing, such decision shall be final.

25.7(4) The claimant may directly appeal the decision, without request for review, to the department of inspections, appeals, and licensing.

25.7(5) Claimants affected by determinations made in accordance with this rule have the same rights to further appeal as are provided in Iowa Code section 96.6.

25.7(6) When a determination has become final, the benefits shall be recovered.

a. If a claimant does not immediately repay the overpayment on demand, recovery of overpayments due to misrepresentation or fraud may also include the filing of a notice of lien or other civil action. Upon finalization of the determination of overpayment by reason of a claimant's fault or fraud, interest shall accrue at a rate of 1/30th of 1 percent per day until the overpayment is paid in full.

Amount of Original Overpayment	Minimum Monthly Payments	Number of Months Required to Liquidate the Overpayment
Under \$199	\$ 25	1 to 8
\$200 to \$399	\$ 50	4 to 8
\$400 to \$599	\$ 75	5 to 8
\$600 to \$799	\$ 90	6 to 9
\$800 to \$999	\$ 100	8 to 10
\$1,000 to \$1,499	\$ 150	6 to 10
\$1,500 to \$1,999	\$ 200	7 to 10
\$2,000 to \$2,999	\$ 250	8 to 12
\$3,000 and over	\$ 300	10 to —

b. The department shall mail a first statement of overpayment to the claimant's last-known address. This statement will request full repayment to the department.

c. If a claimant fails to respond to the first statement of overpayment, a demand letter shall be sent 30 days later. The demand letter notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement. Monthly amounts based on the minimum repayment agreement schedule below will be printed on the demand letter. The first repayment is expected ten days from the date of the demand letter and the additional repayments every 30 days thereafter until the debt is paid in full. The following minimum repayment agreement is acceptable to the department, though the department reserves the right to accept or reject any proposed repayment agreement.

d. After sending the demand letter, the department may proceed with any appropriate lien or civil action to collect the debt, which would include but not be limited to a judgment in a court having jurisdiction over the matter. The department may pursue the same type of action where a claimant defaults on a repayment agreement.

e. If the department receives a cash repayment of an overpayment, the department shall issue a receipt and mail it to the claimant's last-known address. If the department receives a repayment that is not identified by a social security number, name, or other means of identification, the department will retain the money until such time as a positive identification can be made and proper credit given to the claimant.

f. An overpayment to the claimant will cause the employer to be relieved of charges except when the overpayment is a result of payment of a back pay award.

g. An underpayment of \$5 or less will not be set up and paid to an individual unless the individual requests the payment in writing.

This rule is intended to implement Iowa Code sections 96.1A(37), 96.3(3), 96.3(7), 96.4(3), 96.5(1), 96.5(3), 96.6(1), 96.8(5), 96.11(1), and 96.16.

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