

**871—24.13(96) Deductible and nondeductible payments.**

**24.13(1) Procedures for deducting payments from benefits.** Any payment defined under subrules 24.13(2) and 24.13(3) made to an individual claiming benefits shall be deducted from benefits in accordance with the following procedures until the amount is exhausted; however, vacation pay which is deductible in the manner prescribed in rule 871—24.16(96) shall be deducted first when paid in conjunction with other deductible payments described in this rule unless otherwise designated by the employer. The individual claiming benefits is required to designate the last day paid which may indicate payments made under this rule. The employer is required to designate on the Form 65-5317, Notice of Claim response, the amount of the payment and the period to which the amount applies. If the individual or the employer does not designate the period to which the amount of the payment applies, the unemployment insurance representative shall determine the days following the effective date of the claim to which the amount of the payment applies by dividing the amount of the payment by the individual's average weekly wage during the highest earnings quarter of the individual's base period. The amount of any payment under subrule 24.13(2) shall be deducted from the individual's weekly benefit amount on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 871—24.18(96). If the claimant received vacation pay under rule 871—24.16(96), the maximum number of days the vacation pay shall be applied is five workdays following the separation date. The first day the vacation pay can be applied is the first workday after the separation. The amount of any payment under subrule 24.13(3) shall be fully deducted from the individual's weekly benefit amount on a dollar-for-dollar basis.

**24.13(2) Deductible payments from benefits.** The following payments are considered as wages and are deductible from benefits on the basis of the formula used to compute an individual's weekly benefit payment as provided in rule 871—24.18(96):

- a. *Holiday pay.* However, if the actual entitlement to the holiday pay is subsequently not paid by the employer, the individual may request an underpayment adjustment from the department.
- b. *Commissions.* However, the commission payment is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.
- c. *Incentive pay.* However, the incentive payment is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.
- d. *Strike pay.* However, the strike pay is only deductible when it is a payment received for services rendered and the individual is otherwise eligible for benefits.
- e. *Remuneration other than cash.* The cash value of all remuneration payable in any medium other than cash, board, rent, housing, lodging, meals, or similar advantage, is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.
- f. *Stand-by pay.* When an individual is paid to hold oneself in readiness for a call to specific work for an employer but is not called, since the work is given to another, the payment is stand-by pay which is deductible from benefits when earned by the individual during the period when the individual is claiming benefits.
- g. *Tips or gratuity.* However, the amount of the tips or gratuity is only deductible when based on service performed by the individual during the period in which the individual is also claiming benefits.

**24.13(3) Fully deductible payments from benefits.** The following payments are considered as wages; however, such payments are fully deductible from benefits on a dollar-for-dollar basis:

- a. *Wage interruption insurance payment.* Any insurance payment received or due from wage interruption insurance because of fire, disaster, etc.
- b. *Excused personal leave.* Excused personal leave, also referred to as casual pay or random pay, is personal leave with pay granted to an employee for absence from the job because of personal reasons. It shall be treated as vacation and be fully deductible in the manner prescribed in rule 871—24.16(96).
- c. *Wages in lieu of notice, separation allowance, severance pay and dismissal pay.*
- d. *Workers' compensation, temporary disability only.* The payment shall be fully deductible with respect to the week in which the individual is entitled to the workers' compensation for temporary disability, and not to the week in which such payment is paid.

*e.* Pension, retirement, annuity, or any other similar periodic payment made under a plan maintained and contributed to by a base period or chargeable employer. An individual's weekly benefit amount shall only be reduced if the base period employer has made 100 percent of the contributions to the plan which is the same percentage as the percentage contribution of the base period or chargeable employer to the plan.

**24.13(4) Nondeductible payments from benefits.** The following payments are not considered as wages and are not deductible from benefits:

*a.* Self-employment income. However, the individual must meet the benefit eligibility requirements of Iowa Code section 96.4(3).

*b.* Bonuses. The bonus payment is only nondeductible when based on service performed by the individual before the period in which the individual is also claiming benefits.

*c.* Remuneration for work performed by the individual claiming benefits in exchange for county relief in the form of groceries, rent, etc.

*d.* Payment for unused sick leave.

*e.* National guard duty pay. This includes reserve unit drill pay for any branch of the armed service.

*f.* Supplemental unemployment benefit plans approved by the department. See 871—subrule 23.3(1), paragraph “e,” for criteria and employer procedure for obtaining department approval.

*g.* Pension to the blind.

*h.* Payment for terminal leave. Any payment received by military personnel for unused leave upon discharge.

*i.* Compensation for military service-connected disability from the Department of Veterans Affairs.

*j.* Payments to the surviving spouse of a regular or disability pension based on the work of the deceased spouse.

*k.* Deferred wage compensation. Remuneration received by the individual for wages earned in a period prior to the individual's claim for benefits shall not be deductible during the period in which the individual is claiming benefits.

*l.* Witness and jury fees. These fees are reimbursement for expenses and are not considered as wages.

*m.* Supplemental security income. This payment is nondeductible because it is financed by income taxes and not social security taxes and is based on need factors such as age, mental or physical disability, and personal income, and not on previous employment.

*n.* Federal social security benefit and social security disability payments.

*o.* Payments conditional upon the release of any rights.

*p.* Payments requiring the individual to work through a specific day to be eligible.

This rule is intended to implement Iowa Code sections 96.3(3), 96.5, 96.5(5), 96.11(1), and 96.19(38).

[ARC 1367C, IAB 3/5/14, effective 4/9/14; ARC 3303C, IAB 8/30/17, effective 10/4/17; ARC 4832C, IAB 12/18/19, effective 1/22/20; ARC 5037C, IAB 5/6/20, effective 6/10/20]